

SENATE BILL NO. 517

INTRODUCED BY ESSMANN, LANGE, STORY, R. BROWN, HIMMELBERGER, BLACK, GILLAN,
MANGAN

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING TAXATION; ENACTING A 3 PERCENT SALES TAX AND USE TAX; ALLOWING CERTAIN SALES TAX AND USE TAX EXEMPTIONS, INCLUDING UNPREPARED FOOD ITEMS, USED CLOTHING, MEDICAL ITEMS, DRUGS, AND UTILITIES; PROVIDING FOR DISTRIBUTION OF SALES TAX AND USE TAX REVENUE; ALLOWING A LOCAL GOVERNMENT TO ESTABLISH A LOCAL OPTION SALES TAX THAT IS TIED TO THE STATE SALES TAX AND USE TAX AFTER APPROVAL BY THE ELECTORATE OF THE LOCAL GOVERNMENT; INCREASING THE EXEMPTION AMOUNT OF CLASS EIGHT PROPERTY BASED ON THE PERCENTAGE GROWTH OF INFLATION-ADJUSTED MONTANA WAGES AND SALARIES; INCREASING THE CAP ON THE EXEMPT MARKET VALUE OF CLASS EIGHT PROPERTY FROM \$5,000 TO \$500,000 FOR OWNERS OF \$1 MILLION OR LESS OF CLASS EIGHT PROPERTY; AUTHORIZING THE DEPARTMENT OF REVENUE TO ENTER INTO THE STREAMLINED SALES AND USE TAX AGREEMENT; IMPLEMENTING APPROPRIATE PROVISIONS OF THE STREAMLINED SALES AND USE TAX AGREEMENT; PROVIDING FOR AN INCOME TAX CREDIT FOR SALES TAX AND USE TAX PAYMENTS; ESTABLISHING A FEE ON OCCASIONALLY USED RESIDENTIAL PROPERTY TO COMPENSATE FOR THE LACK OF PARTICIPATION IN THE LIFE OF THE STATE; PROVIDING FOR THE ADMINISTRATION OF THE FEE, INCLUDING PENALTIES; ELIMINATING THE 101 MILLS LEVIED STATEWIDE FOR PUBLIC EDUCATION AND THE UNIVERSITY SYSTEM; AMENDING SECTIONS 7-6-1501, 7-7-4424, 7-7-4428, 15-1-111, 15-1-112, 15-1-402, 15-6-138, 15-6-201, 15-8-301, 15-10-420, 15-24-1402, 15-24-1703, 15-24-1802, 15-24-1902, 15-24-2002, 15-36-331, 15-68-101, 15-68-102, 15-68-110, 15-68-201, 15-68-202, 15-68-206, 15-68-207, 15-68-401, 15-68-402, 15-68-405, 15-68-501, 15-68-502, 15-68-505, 15-68-510, 15-68-801, ~~17-3-213, 20-5-323, 20-5-324, 20-6-702, 20-7-102, 20-9-212, 20-9-306, 20-9-307, 20-9-308, 20-9-331, 20-9-333, 20-9-347, 20-9-361, 90-6-304, 90-6-305, 90-6-309, AND 90-6-403, MCA, SECTION 27, CHAPTER 285, LAWS OF 1999, SECTION 31, CHAPTER 285, LAWS OF 1999, AND SECTION 5, CHAPTER 577, LAWS OF 2003; REPEALING SECTIONS 15-10-107, 20-9-360, AND 20-25-423, MCA; AND PROVIDING DELAYED EFFECTIVE DATES AND APPLICABILITY DATES."~~

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-6-1501, MCA, is amended to read:

"7-6-1501. Resort tax -- definitions. As used in 7-6-1501 through 7-6-1509, the following definitions apply:

(1) (a) "Luxuries" means any gift item, luxury item, or other item normally sold to the public or to transient visitors or tourists.

(b) The term does not include food purchased unprepared or unserved, medicine, medical supplies and services, appliances, hardware supplies and tools, or any necessities of life.

(2) "Medical supplies" means items that are sold to be used for curative, prosthetic, or medical maintenance purposes, whether or not prescribed by a physician.

(3) "Medicine" means substances sold for curative or remedial properties, including both ~~physician prescribed~~ physician-prescribed and over-the-counter medications.

(4) "Resort area" means an area that:

~~—— (a) is an unincorporated area and is a defined contiguous geographic area;~~

~~—— (b) has a population of less than 2,500 according to the most recent federal census or federal estimate;~~

~~—— (c) derives the major portion of its economic well-being from businesses catering to the recreational and personal needs of persons traveling to or through the area for purposes not related to their income production; and~~

~~—— (d) has been designated by the department of commerce as a resort area prior to its establishment by the county commissioners as provided in 7-6-1508~~ has a resort tax in effect prior to [the effective date of this section].

(5) "Resort community" means a community that:

~~—— (a) is an incorporated municipality;~~

~~—— (b) has a population of less than 5,500 according to the most recent federal census or federal estimate;~~

~~—— (c) derives the primary portion of its economic well-being related to current employment from businesses catering to the recreational and personal needs of persons traveling to or through the municipality for purposes not related to their income production; and~~

~~—— (d) has been designated by the department of commerce as a resort community~~ has a resort tax in effect prior to [the effective date of this section]."

Section 2. Section 7-7-4424, MCA, is amended to read:

"7-7-4424. Undertakings to be self-supporting. (1) The governing body of a municipality issuing bonds pursuant to this part shall prescribe and collect reasonable rates, fees, or charges for the services, facilities, and commodities of the undertaking and shall revise the rates, fees, or charges from time to time whenever necessary so that the undertaking is and remains self-supporting. The property taxes specifically authorized to be levied for the general purpose served by an undertaking, ~~or any~~ resort taxes approved, levied, and appropriated to an undertaking in compliance with 7-6-1501 through 7-6-1509, and any local option sales taxes approved, levied, and appropriated to an undertaking in compliance with [sections 49 through 54] constitute revenue of the undertaking and may not result in an undertaking being considered not self-supporting.

(2) The rates, fees, or charges prescribed, along with any appropriated property or resort tax collections, must produce revenue at least sufficient to:

(a) pay when due all bonds and interest on the bonds, the payment of which the revenue has been pledged, charged, or otherwise encumbered, including reserves for the bonds; and

(b) provide for all expenses of operation and maintenance of the undertaking, including reserves."

Section 3. Section 7-7-4428, MCA, is amended to read:

"7-7-4428. Covenants in resolution authorizing issuance of bonds. Any resolution or resolutions authorizing the issuance of bonds under this part may contain covenants as to:

(1) the purpose or purposes to which the proceeds of sale of the bonds may be applied and the disposition of the proceeds;

(2) the use and disposition of the revenue of the undertaking for which the bonds are to be issued, including the creation and maintenance of reserves and including the pledge or appropriation of all or a portion of the property and resort tax revenue referred to in 7-7-4424 or local option sales tax revenue referred to in [section 52];

(3) the transfer, from the general fund of the municipality to the account or accounts of the undertaking, of an amount equal to the cost of furnishing the municipality or any of its departments, boards, or agencies with the services, facilities, or commodities of the undertaking;

(4) the issuance of other or additional bonds payable from the revenue of the undertaking;

(5) the operation and maintenance of the undertaking;

1 (6) the insurance to be carried on the undertaking and the use and disposition of insurance money;
2 (7) books of account and the inspection and audit of the books; and
3 (8) the terms and conditions upon which the holders or trustees of the bonds or any proportion of the
4 bonds are entitled to the appointment of a receiver by the district court having jurisdiction. The receiver may:
5 (a) enter and take possession of the undertaking;
6 (b) operate and maintain the undertaking;
7 (c) prescribe rates, fees, or charges, subject to the approval of the public service commission; and
8 (d) collect, receive, and apply all revenue thereafter arising from the undertaking in the same manner
9 as the municipality itself might do."
10

11 **Section 4.** Section 15-1-111, MCA, is amended to read:

12 **"15-1-111. (Temporary) Reimbursement to local governments and schools -- duties of department**
13 **and county treasurer -- statutory appropriation.** (1) Prior to September 1, 1990, the department's agent in
14 the county shall supply the following information to the department for each taxing jurisdiction within the county:

15 (a) the number of mills levied in the jurisdiction for tax year 1989;
16 (b) the number of mills levied in the jurisdiction for tax year 1990;
17 (c) the total taxable valuation for tax years 1989 and 1990, reported separately for each year, of all
18 personal property not secured by real property; and
19 (d) the total taxable valuation for tax years 1989 and 1990, reported separately for each year, of all
20 personal property secured by real property.

21 (2) After receipt of the information from its agent, the department shall calculate the amount of revenue
22 lost to each taxing jurisdiction, using current year mill levies, due to the annual reduction in personal property
23 tax rates set forth in 15-6-138, prior to 1994, and any reduction in taxes based upon recalculation of the effective
24 tax rate for property in 15-6-145, prior to 1994. The department shall total the amounts for all taxing jurisdictions
25 within the county.

26 (3) (a) The department shall remit to the county treasurer 50% of the amount of revenue reimbursable,
27 determined pursuant to subsection (1), on or before November 30 and the remaining 50% on or before May 31.
28 ~~—— (b) For tax year 1993 through tax year 1998, the department shall remit to the county treasurer of each~~
29 ~~county the same amount remitted to the county treasurer for the fiscal year 1991, as adjusted by the result of~~
30 ~~dissolved or combined taxing jurisdictions, as provided for in subsection (7). Fifty percent of the amount must~~

~~be remitted on or before November 30 and the remaining 50% on or before May 31.~~

(c)(b) (i) For each tax year ~~1999~~ through tax year 2008, the department shall remit to the county treasurer of each county the same amount remitted to the county treasurer for the fiscal year 1991, progressively reduced by 10% of the 1991 amount each year, in accordance with the following schedule:

Tax Year	Percentage of 1991 Remittance Amount
1999	90
2000	80
2001	70
2002	60
2003	50
2004	40
2005	30
2006	20
2007	10
2008 and following years	0

(ii) The amount remitted must be adjusted by the result of dissolved or combined taxing jurisdictions, as provided for in subsection (7). Fifty percent of the amount must be remitted on or before November 30 and the remaining 50% on or before May 31.

(4) Upon receipt of the reimbursement from the department, the county treasurer shall distribute the reimbursement to each taxing jurisdiction as calculated by the department.

(5) (a) For the purposes of this section and subject to subsection (7), "taxing jurisdiction" means a jurisdiction levying mills against personal property and includes but is not limited to a county, city, school district, tax increment financing district, and miscellaneous taxing district.

(b) The term does not include ~~county or state school equalization levies provided for in 15-10-107, 20-9-331, 20-9-333, 20-9-360, 20-25-423, and the vocational-technical education levy provided for in 20-25-439.~~

(6) The amounts necessary for the administration of this section are statutorily appropriated, as provided in 17-7-502, from the general fund to reimburse eligible taxing jurisdictions for reductions in tax rates on personal property.

(7) The following apply to taxing jurisdictions that were altered after tax year 1989:

(a) A taxing jurisdiction that existed in tax year 1989 and that no longer exists is not entitled to reimbursement under this section.

(b) A taxing jurisdiction that existed in tax year 1989 and that is split into two or more taxing jurisdictions or that is annexed to or is consolidated with another taxing jurisdiction is entitled to reimbursement based on the portion of 1989 taxable value within each new taxing jurisdiction. The department shall determine the portion of 1989 taxable value located in each taxing jurisdiction.

(c) A taxing jurisdiction that did not exist in tax year 1989 is not entitled to reimbursement under this section unless the jurisdiction was created as described in subsection (7)(b). (Repealed effective July 1, 2008--secs. 66(2), 68(2), Ch. 422, L. 1997.)"

Section 5. Section 15-1-112, MCA, is amended to read:

"15-1-112. Business equipment tax rate reduction reimbursement to local government taxing jurisdictions. (1) ~~On or before January 1, 1996, for the reduction in payment under subsection (4) and by June 1 of 1996, 1997, and 1998 for all other reimbursements in this section, the~~ The department shall determine a reimbursement amount associated with reducing the tax rate in 15-6-138 as provided in Chapter 570, Laws of 1995, and provide that information to each county treasurer. The reimbursement amount must be determined for each local government taxing jurisdiction that levied mills on the taxable value of property described in 15-6-138 in the corresponding tax year. However, the reimbursement does not apply to property described in 15-6-138 that has a reduced tax rate under 15-24-1402 county based upon reimbursement amounts for tax year 1999 for distribution by the county as provided in subsection (2). The annual amount must be appropriated from the special revenue account for the collection of sales tax and use tax provided in 15-68-820.

(2) (a) ~~The reimbursement amount to be used as the basis for the payment reduction under subsection (4) is the product of multiplying the tax year 1995 taxable value of property described in 15-6-138 for each local government taxing jurisdiction by the tax year 1995 mill levy for the jurisdiction and then multiplying by 1/9th.~~

~~(b) (i) The reimbursement amount for each local government taxing jurisdiction for tax year 1996 is the amount determined under subsection (2)(a) unless the tax year 1996 market value of property described in 15-6-138, for the particular local government taxing jurisdiction, is more than the tax year 1995 market value for property described in 15-6-138 in the same jurisdiction.~~

~~(ii) If the tax year 1996 market value is greater than the tax year 1995 market value for a particular jurisdiction, then the reimbursement amount for tax year 1996 is the result of subtracting the simulated 1996 tax~~

1 from the 1995 tax. The 1995 tax is the tax for the particular jurisdiction, determined by multiplying the actual
2 taxable valuation of property described in 15-6-138, for tax year 1995, by the tax year 1995 mill levy for the
3 jurisdiction. The simulated 1996 tax for the particular jurisdiction is the actual tax year 1996 taxable value of
4 property described in 15-6-138 multiplied by the tax year 1995 mill levy for the particular jurisdiction. If the
5 simulated 1996 tax is greater than the 1995 tax, the reimbursement amount is zero.

6 ~~——— (c) (i) The reimbursement amount for each local government taxing jurisdiction for tax year 1997 is the~~
7 ~~amount determined under subsection (2)(a) multiplied by two unless the tax year 1997 market value of property~~
8 ~~described in 15-6-138, for the particular local government taxing jurisdiction, is more than the tax year 1995~~
9 ~~market value for property described in 15-6-138 in the same jurisdiction.~~

10 ~~——— (ii) If the tax year 1997 market value is greater than the tax year 1995 market value for a particular~~
11 ~~jurisdiction, then the reimbursement amount for tax year 1997 is the result of subtracting the simulated 1997 tax~~
12 ~~from the 1995 tax. The 1995 tax is the tax for the particular jurisdiction, determined by multiplying the actual~~
13 ~~taxable valuation of property described in 15-6-138, for tax year 1995, by the tax year 1995 mill levy for the~~
14 ~~jurisdiction. The simulated 1997 tax for the particular jurisdiction is the actual tax year 1997 taxable value of~~
15 ~~property described in 15-6-138 multiplied by the tax year 1995 mill levy for the particular jurisdiction. If the~~
16 ~~simulated 1997 tax is greater than the 1995 tax, the reimbursement amount is zero.~~

17 ~~——— (d) (i) The reimbursement amount for each local government taxing jurisdiction for tax year 1998 is the~~
18 ~~amount determined under subsection (2)(a) multiplied by three unless the tax year 1998 market value of property~~
19 ~~described in 15-6-138, for the particular local government taxing jurisdiction, is more than the tax year 1995~~
20 ~~market value for property described in 15-6-138 in the same jurisdiction.~~

21 ~~——— (ii) If the tax year 1998 market value is greater than the tax year 1995 market value for a particular~~
22 ~~jurisdiction, then the reimbursement amount for tax year 1998 is the result of subtracting the simulated 1998 tax~~
23 ~~from the 1995 tax. The 1995 tax is the tax for the particular jurisdiction, determined by multiplying the actual~~
24 ~~taxable valuation of property described in 15-6-138, for tax year 1995, by the tax year 1995 mill levy for the~~
25 ~~jurisdiction. The simulated 1998 tax for the particular jurisdiction is the actual tax year 1998 taxable value of~~
26 ~~property described in 15-6-138 multiplied by the tax year 1995 mill levy for the particular jurisdiction. If the~~
27 ~~simulated 1998 tax is greater than the 1995 tax, the reimbursement amount is zero.~~

28 ~~——— (3) (a) For purposes of this section, "local government taxing jurisdiction" means a local government~~
29 ~~rather than a state taxing jurisdiction that levied mills against property described in 15-6-138, including county~~
30 ~~governments, incorporated city and town governments, consolidated county and city governments, tax increment~~

1 ~~financing districts, local elementary and high school districts, local community college districts, miscellaneous~~
2 ~~districts, and special districts. The term includes countywide mills levied for equalization of school retirement or~~
3 ~~transportation.~~

4 ~~———(b) The term does not include county or state school equalization levies provided for in 20-9-331,~~
5 ~~20-9-333, 20-9-360, and 20-25-439.~~

6 ~~———(c) Each tax increment financing district must receive the benefit of the state mill on the incremental~~
7 ~~taxable value of the district.~~

8 ~~———(4) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360~~
9 ~~in June of 1996 by an amount equal to 38% of the reimbursement amount determined under subsection (2)(a)~~
10 ~~for all of the local government taxing jurisdictions in the county.~~

11 ~~———(5) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360~~
12 ~~in December of 1996 by an amount equal to 31% of the reimbursement amount for tax year 1996 for all of the~~
13 ~~local government taxing jurisdictions in the county, as determined by the department under subsection (2).~~

14 ~~———(6) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360~~
15 ~~in June of 1997 by an amount equal to 31% of the reimbursement amount for tax year 1996 for all of the local~~
16 ~~government taxing jurisdictions in the county and by an amount equal to 38% of the reimbursement amount for~~
17 ~~tax year 1997 for all of the local government taxing jurisdictions in the county, as determined by the department~~
18 ~~under subsection (2).~~

19 ~~———(7) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360~~
20 ~~in December of 1997 by an amount equal to 31% of the reimbursement amount for tax year 1997 for all of the~~
21 ~~local government taxing jurisdictions in the county, as determined by the department under subsection (2).~~

22 ~~———(8) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360~~
23 ~~in June of 1998 by an amount equal to 31% of the reimbursement amount for tax year 1997 for all of the local~~
24 ~~government taxing jurisdictions in the county and by an amount equal to 38% of the reimbursement amount for~~
25 ~~tax year 1998 for all of the local government taxing jurisdictions in the county, as determined by the department~~
26 ~~under subsection (2).~~

27 ~~———(9) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360~~
28 ~~in December of 1998 by an amount equal to 31% of the reimbursement amount for tax year 1998 for all of the~~
29 ~~local government taxing jurisdictions in the county, as determined by the department under subsection (2).~~

30 ~~———(10) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360~~

in June of 1999 by an amount equal to 69% of the reimbursement amount for tax year 1998 for all of the local government taxing jurisdictions in the county, as determined by the department under subsection (2).

~~———— (11) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360 in December of the years 1999 through 2007 by an amount equal to 31% of the reimbursement amount determined in subsection (13) for all of the local government taxing jurisdictions in the county, as determined by the department under subsection (2).~~

~~———— (12) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360 in June of the years 2000 through 2008 by an amount equal to 69% of the reimbursement amount determined in subsection (13) for all of the local government taxing jurisdictions in the county, as determined by the department under subsection (2).~~

~~(13)~~(2) (a) The reimbursement amount for tax year ~~1999~~ 2005 and each subsequent tax year for ~~9~~ 3 years must be progressively reduced each year by ~~40%~~ 25% of the reimbursement amount for tax year ~~1998~~ 2004, according to the following schedule:

Tax Year	Percentage of 1998 <u>2004</u> Reimbursement Amount
1999	90
2000	80
2001	70
2002	60
2003	50
2004	40
2005	30 <u>75%</u>
2006	20 <u>50%</u>
2007	10 <u>25%</u>
2008 and following years	0

(b) ~~The Of the~~ reimbursement amount, ~~for each tax year must be the basis for reducing the amount remitted to the state for the levy imposed under 20-9-360~~ 31% must be distributed in December of the ~~same tax~~ year and 69% must be distributed in June of the following year.

~~(14)~~(3) The county treasurer shall use the funds ~~from the reduced payment to the state for the levy imposed under 20-9-360~~ to reimburse each local government taxing jurisdiction in the amount determined by

1 the department under subsection (2). The reimbursement must be distributed to funds within local government
2 taxing jurisdictions in the same manner as taxes on property described in 15-6-138 are distributed. The
3 reimbursement in June must be distributed based on the prior year's mill levy, and the reimbursement in
4 December must be based on the current year's mill levy.

5 ~~(15)~~(4) Each local government taxing jurisdiction receiving reimbursements shall consider the amount
6 of reimbursement that will be received and lower the mill levy otherwise necessary to fund the budget by the
7 amount that would otherwise have to be raised by the mill levy.

8 ~~(16)~~(5) A local government taxing jurisdiction that ceases to exist after October 1, 1995, will no longer
9 be considered for revenue loss or reimbursement purposes. A local government taxing jurisdiction that is created
10 after January 1, 1996, will not be considered for revenue loss or reimbursement purposes. If a local government
11 taxing jurisdiction that existed prior to January of 1996 is split between two or more taxing jurisdictions or is
12 annexed to or is consolidated with another taxing jurisdiction, the department shall determine how much of the
13 revenue loss and reimbursement is attributed to the new jurisdictions."
14

15 **Section 6.** Section 15-1-402, MCA, is amended to read:

16 **"15-1-402. Payment of taxes under protest.** (1) The person upon whom a property tax or fee is being
17 imposed under this title may, before the property tax or fee becomes delinquent, pay under written protest that
18 portion of the property tax or fee protested. The protested payment must:

19 (a) be made to the officer designated and authorized to collect it;
20 (b) specify the grounds of protest; and
21 (c) not exceed the difference between the payment for the immediately preceding tax year and the
22 amount owing in the tax year protested unless a different amount results from the specified grounds of protest,
23 which may include but are not limited to changes in assessment due to reappraisal under 15-7-111.

24 (2) A person appealing a property tax or fee pursuant to chapter 2 or 15 shall pay the tax or fee under
25 protest when due in order to receive a refund. If the tax or fee is not paid under protest when due, the appeal
26 may continue but a tax or fee may not be refunded as a result of the appeal.

27 (3) If a protested property tax or fee is payable in installments, a subsequent installment portion
28 considered unlawful by the state tax appeal board need not be paid and an action or suit need not be
29 commenced to recover the subsequent installment. The determination of the action or suit commenced to
30 recover the first installment portion paid under protest determines the right of the party paying the subsequent

installment to have it or any part of it refunded to the party or the right of the taxing authority to collect a subsequent installment not paid by the taxpayer plus interest from the date the subsequent installment was due.

(4) (a) Except as provided in subsection (4)(b), all property taxes and fees paid under protest to a county or municipality must be deposited by the treasurer of the county or municipality to the credit of a special fund to be designated as a protest fund and must be retained in the protest fund until the final determination of any action or suit to recover the taxes and fees unless they are released at the request of the county, municipality, or other local taxing jurisdiction pursuant to subsection (5). This section does not prohibit the investment of the money of this fund in the state unified investment program or in any manner provided in Title 7, chapter 6. The provision creating the special protest fund does not apply to any payments made under protest directly to the state.

(b) (i) Property taxes that are levied by the state against property that is centrally assessed pursuant to 15-23-101 must be remitted by the county treasurer to the state treasurer.

(ii) The state treasurer shall deposit ~~that portion of the funds levied pursuant to 15-10-107 in the state special revenue fund. The remainder of the funds must be deposited~~ in the state general fund.

(5) (a) Except as provided in subsection (5)(b), the governing body of a taxing jurisdiction affected by the payment of taxes under protest in the second and subsequent years that a tax protest remains unresolved may demand that the treasurer of the county or municipality pay the requesting taxing jurisdiction all or a portion of the protest payments to which it is entitled, except the amount paid by the taxpayer in the first year of the protest. The decision in a previous year of a taxing jurisdiction to leave protested taxes in the protest fund does not preclude it from demanding in a subsequent year any or all of the payments to which it is entitled, except the first-year protest amount.

(b) The governing body of a taxing jurisdiction affected by the payment of taxes under protest on property that is centrally assessed pursuant to 15-23-101 in the first and subsequent years that a tax protest remains unresolved may demand that the treasurer of the county or municipality pay the requesting taxing jurisdiction all or a portion of the protest payments to which it is entitled. The decision in a previous year of a taxing jurisdiction to leave protested taxes of centrally assessed property in the protest fund does not preclude it from demanding in a subsequent year any or all of the payments to which it is entitled.

(6) (a) If action before the county tax appeal board, state tax appeal board, or district court is not commenced within the time specified or if the action is commenced and finally determined in favor of the department of revenue, county, municipality, or treasurer of the county or the municipality, the amount of the

1 protested portions of the property tax or fee must be taken from the protest fund and deposited to the credit of
2 the fund or funds to which the property tax belongs, less a pro rata deduction for the costs of administration of
3 the protest fund and related expenses charged to the local government units.

4 (b) (i) If the action is finally determined adversely to the governmental entity levying the tax, then the
5 treasurer of the municipality, county, or state entity levying the tax shall, upon receipt of a certified copy of the
6 final judgment in the action and upon expiration of the time set forth for appeal of the final judgment, refund to
7 the person in whose favor the judgment is rendered the amount of the protested portions of the property tax or
8 fee that the person holding the judgment is entitled to recover, together with interest from the date of payment
9 under protest.

10 (ii) The taxing jurisdiction shall pay interest at the rate of interest earned by the pooled investment fund
11 provided for in 17-6-203 for the applicable period.

12 (c) If the amount retained in the protest fund is insufficient to pay all sums due the taxpayer, the
13 treasurer shall apply the available amount first to tax repayment, then to interest owed, and lastly to costs.

14 (d) (i) If the protest action is decided adversely to a taxing jurisdiction and the amount retained in the
15 protest fund is insufficient to refund the tax payments and costs to which the taxpayer is entitled and for which
16 local government units are responsible, the treasurer shall bill and the taxing jurisdiction shall refund to the
17 treasurer that portion of the taxpayer refund, including tax payments and costs, for which the taxing jurisdiction
18 is proratably responsible. The treasurer is not responsible for the amount required to be refunded by the state
19 treasurer as provided in subsection (6)(b).

20 (ii) For an adverse protest action against the state for centrally assessed property, the state treasurer
21 shall refund the amount of protested taxes and interest as required in subsection (6)(b).

22 (e) In satisfying the requirements of subsection (6)(d), the taxing jurisdiction, including the state, is
23 allowed not more than 1 year from the beginning of the fiscal year following a final resolution of the protest. The
24 taxpayer is entitled to interest on the unpaid balance at the rate referred to in subsection (6)(b) from the date of
25 payment under protest until the date of final resolution of the protest and at the combined rate of the federal
26 reserve discount rate quoted from the federal reserve bank in New York, New York, on the date of final
27 resolution, plus 4 percentage points, from the date of final resolution of the protest until refund is made.

28 (7) A taxing jurisdiction, except the state, may satisfy the requirements of this section by use of funds
29 from one or more of the following sources:

30 (a) imposition of a property tax to be collected by a special tax protest refund levy;

(b) the general fund or any other funds legally available to the governing body; and

(c) proceeds from the sale of bonds issued by a county, city, or school district for the purpose of deriving revenue for the repayment of tax protests lost by the taxing jurisdiction. The governing body of a county, city, or school district is authorized to issue the bonds pursuant to procedures established by law. The bonds may be issued without being submitted to an election. Property taxes may be levied to amortize the bonds.

(8) If the department revises an assessment that results in a refund of taxes of \$5 or less, a refund is not owed."

Section 7. Section 15-6-138, MCA, is amended to read:

"15-6-138. (Temporary) Class eight property -- description -- taxable percentage. (1) Class eight property includes:

(a) all agricultural implements and equipment that are not exempt under 15-6-201(1)(bb);

(b) all mining machinery, fixtures, equipment, tools that are not exempt under 15-6-201(1)(r), and supplies except those included in ~~class five~~ 15-6-135;

(c) all oil and gas production machinery, fixtures, equipment, including pumping units, oil field storage tanks, water storage tanks, water disposal injection pumps, gas compressor and dehydrator units, communication towers, gas metering shacks, treaters, gas separators, water flood units, gas boosters, and similar equipment that is skidable, portable, or movable, tools that are not exempt under 15-6-201(1)(r), and supplies except those included in ~~class five~~ 15-6-135;

(d) all manufacturing machinery, fixtures, equipment, tools, except a certain value of hand-held tools and personal property related to space vehicles, ethanol manufacturing, and industrial dairies and milk processors as provided in 15-6-201, and supplies except those included in ~~class five~~ 15-6-135;

(e) all goods and equipment that are intended for rent or lease, except goods and equipment that are specifically included and taxed in another class;

(f) special mobile equipment as defined in 61-1-104;

(g) furniture, fixtures, and equipment, except that specifically included in another class, used in commercial establishments as defined in this section;

(h) x-ray and medical and dental equipment;

(i) citizens' band radios and mobile telephones;

(j) radio and television broadcasting and transmitting equipment;

1 (k) cable television systems;

2 (l) coal and ore haulers;

3 (m) theater projectors and sound equipment; and

4 (n) all other property that is not included in any other class in this part, except that property that is
5 subject to a fee in lieu of a property tax.

6 (2) As used in this section, "coal and ore haulers" means nonhighway vehicles that exceed 18,000
7 pounds per axle and that are primarily designed and used to transport coal, ore, or other earthen material in a
8 mining or quarrying environment.

9 (3) "Commercial establishment" includes any hotel; motel; office; petroleum marketing station; or
10 service, wholesale, retail, or food-handling business.

11 (4) Class eight property is taxed at 3% of its market value.

12 (5) (a) If, in any year beginning with tax year ~~2004~~ 2006, the percentage growth in inflation-adjusted
13 Montana wage and salary income is at least 2.85% from the year prior to the base year, then the ~~tax rate~~
14 exemption amount for class eight property will be ~~reduced by 1% each year until the tax rate reaches zero~~
15 increased as provided in subsection (6)(b).

16 (b) For each tax year, the base year is the year 3 years before the applicable tax year and the target
17 year is the year 2 years before the applicable tax year.

18 (c) The department shall calculate the percentage growth in subsection (5)(a) by October 30 of each
19 target year by using the formula $(W/CPI) - 1$, where:

20 (i) W is the Montana wage and salary income for the calendar base year divided by the Montana wage
21 and salary income for the calendar year prior to the base year; and

22 (ii) CPI is the consumer price index for the calendar base year used in subsection (5)(c)(i) divided by
23 the consumer price index for the year prior to the most current calendar year prior to the base year used in
24 subsection (5)(c)(i).

25 (d) For purposes of determining the percentage growth in subsection (5)(a), the department shall use
26 the bureau of economic analysis of the United States department of commerce Montana wage and salary
27 disbursements, fall SA07 (state annual) for the target year wage and salary data series.

28 (e) Inflation must be measured by the consumer price index, U.S. city average, all urban consumers
29 (CPI-U), using the 1982-84 base of 100, as published by the bureau of labor statistics of the United States
30 department of labor.

(6) ~~(a) The~~ Except as provided in subsection (6)(b), the first \$50,000 of class eight property of a person or business entity that owns an aggregate of \$5,000 \$500,000 or less in market value of class eight property is exempt from taxation.

(b) If wage and salary growth specified in subsection (5)(a) is achieved:

(i) for the applicable tax year and the following tax year, the first \$100,000 of class eight property of a person or business entity that owns \$500,000 or less in market value is exempt from taxation;

(ii) for the next 2 succeeding tax years, the first \$250,000 of class eight property of a person or business entity that owns \$750,000 or less in market value is exempt from taxation; and

(iii) for all succeeding tax years, the first \$500,000 of class eight property of a person or business entity that owns \$1 million or less in market value is exempt from taxation. ~~(Repeated on occurrence of contingency--secs. 27(2), 31(4), Ch. 285, L. 1999.)~~"

Section 8. Section 15-6-201, MCA, is amended to read:

"15-6-201. Exempt categories. (1) The following categories of property are exempt from taxation:

(a) except as provided in 15-24-1203, the property of:

(i) the United States, except:

(A) if congress passes legislation that allows the state to tax property owned by the federal government or an agency created by congress; or

(B) as provided in 15-24-1103;

(ii) the state, counties, cities, towns, and school districts;

(iii) irrigation districts organized under the laws of Montana and not operating for profit;

(iv) municipal corporations;

(v) public libraries; and

(vi) rural fire districts and other entities providing fire protection under Title 7, chapter 33;

(b) buildings, with land that they occupy and furnishings in the buildings, that are owned by a church and used for actual religious worship or for residences of the clergy, together with adjacent land reasonably necessary for convenient use of the buildings;

(c) property used exclusively for agricultural and horticultural societies, for educational purposes, and for nonprofit health care facilities, as defined in 50-5-101, licensed by the department of public health and human services and organized under Title 35, chapter 2 or 3. A health care facility that is not licensed by the department

1 of public health and human services and organized under Title 35, chapter 2 or 3, is not exempt.

2 (d) property that is:

3 (i) owned and held by an association or corporation organized under Title 35, chapter 2, 3, 20, or 21;

4 (ii) devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care
5 and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and

6 (iii) not maintained and operated for private or corporate profit;

7 (e) subject to subsection (2), property that is owned or property that is leased from a federal, state, or
8 local governmental entity by institutions of purely public charity if the property is directly used for purely public
9 charitable purposes;

10 (f) evidence of debt secured by mortgages of record upon real or personal property in the state of
11 Montana;

12 (g) public museums, art galleries, zoos, and observatories that are not used or held for private or
13 corporate profit;

14 (h) all household goods and furniture, including but not limited to clocks, musical instruments, sewing
15 machines, and wearing apparel of members of the family, used by the owner for personal and domestic
16 purposes or for furnishing or equipping the family residence;

17 (i) truck canopy covers or toppers and campers;

18 (j) a bicycle, as defined in 61-1-123, used by the owner for personal transportation purposes;

19 (k) motor homes;

20 (l) all watercraft;

21 (m) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association or
22 nonprofit corporation organized to furnish potable water to its members or customers for uses other than the
23 irrigation of agricultural land;

24 (n) the right of entry that is a property right reserved in land or received by mesne conveyance
25 (exclusive of leasehold interests), devise, or succession to enter land with a surface title that is held by another
26 to explore, prospect, or dig for oil, gas, coal, or minerals;

27 (o) (i) property that is owned and used by a corporation or association organized and operated
28 exclusively for the care of persons with developmental disabilities, persons with mental illness, or persons with
29 physical or mental impairments that constitute or result in substantial impediments to employment and that is
30 not operated for gain or profit; and

(ii) property that is owned and used by an organization owning and operating facilities that are for the care of the retired, aged, or chronically ill and that are not operated for gain or profit;

(p) all farm buildings with a market value of less than \$500 and all agricultural implements and machinery with a market value of less than \$100;

(q) property owned by a nonprofit corporation that is organized to provide facilities primarily for training and practice for or competition in international sports and athletic events and that is not held or used for private or corporate gain or profit. For purposes of this subsection (1)(q), "nonprofit corporation" means an organization that is exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated and admitted under the Montana Nonprofit Corporation Act.

(r) (i) the first \$15,000 or less of market value of tools owned by the taxpayer that are customarily hand-held and that are used to:

(A) construct, repair, and maintain improvements to real property; or

(B) repair and maintain machinery, equipment, appliances, or other personal property;

(ii) space vehicles and all machinery, fixtures, equipment, and tools used in the design, manufacture, launch, repair, and maintenance of space vehicles that are owned by businesses engaged in manufacturing and launching space vehicles in the state or that are owned by a contractor or subcontractor of that business and that are directly used for space vehicle design, manufacture, launch, repair, and maintenance;

(s) harness, saddlery, and other tack equipment;

(t) a title plant owned by a title insurer or a title insurance producer, as those terms are defined in 33-25-105;

(u) timber as defined in 15-44-102;

(v) all trailers as defined in 61-1-111, semitrailers as defined in 61-1-112, pole trailers as defined in 61-1-114, and travel trailers as defined in 61-1-131;

(w) all vehicles registered under 61-3-456;

(x) (i) buses, trucks having a manufacturer's rated capacity of more than 1 ton, and truck tractors, including buses, trucks, and truck tractors apportioned under Title 61, chapter 3, part 7; and

(ii) personal property that is attached to a bus, truck, or truck tractor that is exempt under subsection (1)(x)(i);

(y) motorcycles and quadricycles;

(z) the following percentage of the market value of residential property described in 15-6-134(1)(e) and

- 1 (1)(f):
- 2 ~~(i) 31% for tax year 2003;~~
- 3 ~~—— (ii) 31.4% for tax year 2004;~~
- 4 ~~—— (iii)(i) 32% for tax year 2005;~~
- 5 ~~(iv)(ii) 32.6% for tax year 2006;~~
- 6 ~~(v)(iii) 33.2% for tax year 2007;~~
- 7 ~~(vi)(iv) 34% for tax year 2008 and succeeding tax years;~~
- 8 (aa) the following percentage of the market value of commercial property as described in 15-6-134(1)(g):
- 9 ~~(i) 13% for tax year 2003;~~
- 10 ~~—— (ii) 13.3% for tax year 2004;~~
- 11 ~~—— (iii)(i) 13.8% for tax year 2005;~~
- 12 ~~(iv)(ii) 14.2% for tax year 2006;~~
- 13 ~~(v)(iii) 14.6% for tax year 2007;~~
- 14 ~~(vi)(iv) 15% for tax year 2008 and succeeding tax years;~~
- 15 (bb) personal property used by an industrial dairy or an industrial milk processor and dairy livestock used
- 16 by an industrial dairy;
- 17 (cc) items of personal property intended for rent or lease in the ordinary course of business if each item
- 18 of personal property satisfies all of the following:
- 19 (i) the acquired cost of the personal property is less than \$15,000;
- 20 (ii) the personal property is owned by a business whose primary business income is from rental or lease
- 21 of personal property to individuals and no one customer of the business accounts for more than 10% of the total
- 22 rentals or leases during a calendar year; and
- 23 (iii) the lease of the personal property is generally on an hourly, daily, or weekly basis;
- 24 (dd) all manufacturing machinery, fixtures, equipment, and tools used for the production of ethanol from
- 25 grain during the course of the construction of an ethanol manufacturing facility and for 10 years after completion
- 26 of construction of the manufacturing facility; and
- 27 (ee) light vehicles as defined in 61-1-139; and
- 28 ~~—— (ff) the following property, except property included in 15-6-135, 15-6-137, 15-6-141, 15-6-145, and~~
- 29 ~~15-6-156, if the tax rate in 15-6-138 reaches zero:~~
- 30 ~~—— (i) all agricultural implements and equipment;~~

- 1 ~~—— (ii) all mining machinery, fixtures, equipment, tools, and supplies;~~
2 ~~—— (iii) all oil and gas production machinery, fixtures, equipment, including pumping units, oil field storage~~
3 ~~tanks, water storage tanks, water disposal injection pumps, gas compressor and dehydrator units,~~
4 ~~communication towers, gas metering shacks, treaters, gas separators, water flood units, gas boosters, and~~
5 ~~similar equipment that is skidable, portable, or movable, tools, and supplies;~~
6 ~~—— (iv) all manufacturing machinery, fixtures, equipment, tools, and supplies;~~
7 ~~—— (v) all goods and equipment that are intended for rent or lease;~~
8 ~~—— (vi) special mobile equipment as defined in 61-1-104;~~
9 ~~—— (vii) furniture, fixtures, and equipment;~~
10 ~~—— (viii) x-ray and medical and dental equipment;~~
11 ~~—— (ix) citizens' band radios and mobile telephones;~~
12 ~~—— (x) radio and television broadcasting and transmitting equipment;~~
13 ~~—— (xi) cable television systems;~~
14 ~~—— (xii) coal and ore haulers; and~~
15 ~~—— (xiii) theater projectors and sound equipment.~~

16 (2) (a) For the purposes of subsection (1)(e):

17 (i) the term "institutions of purely public charity" includes any organization that meets the following
18 requirements:

19 (A) The organization offers its charitable goods or services to persons without regard to race, religion,
20 creed, or gender and qualifies as a tax-exempt organization under the provisions of section 501(c)(3), Internal
21 Revenue Code, as amended.

22 (B) The organization accomplishes its activities through absolute gratuity or grants. However, the
23 organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public
24 performances or entertainment or by other similar types of fundraising activities.

25 (ii) agricultural property owned by a purely public charity is not exempt if the agricultural property is used
26 by the charity to produce unrelated business taxable income as that term is defined in section 512 of the Internal
27 Revenue Code, 26 U.S.C. 512. A public charity claiming an exemption for agricultural property shall file annually
28 with the department a copy of its federal tax return reporting any unrelated business taxable income received
29 by the charity during the tax year, together with a statement indicating whether the exempt property was used
30 to generate any unrelated business taxable income.

(b) For the purposes of subsection (1)(g), the term "public museums, art galleries, zoos, and observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold property for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property includes all real and personal property reasonably necessary for use in connection with the public display or observatory use. Unless the property is leased for a profit to a governmental entity or nonprofit organization by an individual or for-profit organization, real and personal property owned by other persons is exempt if it is:

- (i) actually used by the governmental entity or nonprofit organization as a part of its public display;
- (ii) held for future display; or
- (iii) used to house or store a public display.

(3) For the purposes of subsection (1)(bb):

(a) "industrial dairy" means a large-scale dairy operation with 1,000 or more milking cows and includes the dairy livestock and integral machinery and equipment that the dairy uses to produce milk and milk products solely for export from the state, either directly by the dairy or after the milk or milk product has been further processed by an industrial milk processor. After export, any unprocessed milk must be further processed into other dairy products.

(b) "industrial milk processor" means a facility and integral machinery used solely to process milk into milk products for export from the state.

(4) The following portions of the appraised value of a capital investment in a recognized nonfossil form of energy generation or low emission wood or biomass combustion devices, as defined in 15-32-102, are exempt from taxation for a period of 10 years following installation of the property:

(a) \$20,000 in the case of a single-family residential dwelling;

(b) \$100,000 in the case of a multifamily residential dwelling or a nonresidential structure."

Section 9. Section 15-8-301, MCA, is amended to read:

"15-8-301. Statement -- what to contain. (1) The department may require from a person a statement under oath setting forth specifically all the real and personal property owned by, in possession of, or under the control of the person at midnight on January 1. The statement must be in writing, showing separately:

(a) all property belonging to, claimed by, or in the possession or under the control or management of the person;

(b) all property belonging to, claimed by, or in the possession or under the control or management of

1 any firm of which the person is a member;

2 (c) all property belonging to, claimed by, or in the possession or under the control or management of
3 any corporation of which the person is president, secretary, cashier, or managing agent;

4 (d) the county in which the property is situated or in which the property is liable to taxation and, if liable
5 to taxation in the county in which the statement is made, also the city, town, school district, road district, or other
6 revenue districts in which the property is situated;

7 (e) an exact description of all lands, improvements, and personal property;

8 (f) all depots, shops, stations, buildings, and other structures erected on the space covered by the
9 right-of-way and all other property owned by any person owning or operating any railroad within the county.

10 (2) The department shall notify the taxpayer in the statement for reporting personal property owned by
11 a business or used in a business that the statement is for reporting business equipment and other business
12 personal property described in Title 15, chapter 6, part 1. A taxpayer owning exempt business equipment is
13 subject to limited reporting requirements; however, all new businesses shall report their class eight property so
14 that the department can determine the market value of the property. The department shall by rule develop
15 reporting requirements for business equipment to limit the annual reporting of exempt business equipment to
16 the extent feasible.

17 (3) In the reporting of exempt business equipment under 15-6-138(6), the department shall, by rule,
18 establish reporting requirements that would prevent the use of multiple business identities to obtain multiple
19 exemptions for what are functionally single businesses. The rules may require individual and taxpayer
20 identification numbers for pass-through entities, as defined in 15-30-101, and their owners, partners, and officers
21 to allow the department to track exemptions through the entities.

22 ~~(3)~~(4) Whenever one member of a firm or one of the proper officers of a corporation has made a
23 statement showing the property of the firm or corporation, another member of the firm or another officer is not
24 required to include the property in that person's statement but the statement must show the name of the person
25 or officer who made the statement in which the property is included.

26 ~~(4)~~(5) The fact that a statement is not required or that a person has not made a statement, under oath
27 or otherwise, does not relieve the person's property from taxation."

28
29 **Section 10.** Section 15-10-420, MCA, is amended to read:

30 **"15-10-420. Procedure for calculating levy.** (1) (a) Subject to the provisions of this section, a

1 governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount
2 of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3
3 years. ~~The Subject to subsection (10), the~~ maximum number of mills that a governmental entity may impose is
4 established by calculating the number of mills required to generate the amount of property tax actually assessed
5 in the governmental unit in the prior year based on the current year taxable value, less the current year's value
6 of newly taxable property, plus one-half of the average rate of inflation for the prior 3 years.

7 (b) A governmental entity that does not impose the maximum number of mills authorized under
8 subsection (1)(a) may carry forward the authority to impose the number of mills equal to the difference between
9 the actual number of mills imposed and the maximum number of mills authorized to be imposed. The mill
10 authority carried forward may be imposed in a subsequent tax year.

11 (c) For the purposes of subsection (1)(a), the department shall calculate one-half of the average rate
12 of inflation for the prior 3 years by using the consumer price index, U.S. city average, all urban consumers, using
13 the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

14 (2) A governmental entity may apply the levy calculated pursuant to subsection (1)(a) plus any additional
15 levies authorized by the voters, as provided in 15-10-425, to all property in the governmental unit, including
16 newly taxable property.

17 (3) For purposes of this section, newly taxable property includes:

18 (a) annexation of real property and improvements into a taxing unit;

19 (b) construction, expansion, or remodeling of improvements;

20 (c) transfer of property into a taxing unit;

21 (d) subdivision of real property; and

22 (e) transfer of property from tax-exempt to taxable status.

23 (4) (a) For the purposes of subsection (1), the taxable value of newly taxable property includes the
24 release of taxable value from the incremental taxable value of a tax increment financing district because of:

25 (i) a change in the boundary of a tax increment financing district;

26 (ii) an increase in the base value of the tax increment financing district pursuant to 7-15-4287; or

27 (iii) the termination of a tax increment financing district.

28 (b) For the purpose of subsection (3)(d), the subdivision of real property includes the first sale of real
29 property that results in the property being taxable as class four property or as nonagricultural land as described
30 in 15-6-133(1)(c).

(c) For the purposes of this section, newly taxable property does not include an increase in appraised value of land that was previously valued at 75% of the value of improvements on the land, as provided in 15-7-111(4) and (5), as those subsections applied on December 31, 2001.

(5) Subject to subsection (8), subsection (1)(a) does not apply to:

(a) school district levies established in Title 20; or

(b) the portion of a governmental entity's property tax levy for premium contributions for group benefits excluded under 2-9-212 or 2-18-703.

(6) For purposes of subsection (1)(a), taxes imposed do not include net or gross proceeds taxes received under 15-6-131 and 15-6-132.

(7) In determining the maximum number of mills in subsection (1)(a), the governmental entity may increase the number of mills to account for a decrease in reimbursements.

(8) The department shall calculate, on a statewide basis, the number of mills to be imposed for purposes of ~~15-10-107, 20-9-331, 20-9-333, 20-9-360, 20-25-423, and 20-25-439~~. However, the number of mills calculated by the department may not exceed the mill levy limits established in those sections. The mill calculation must be established in whole mills. If the mill levy calculation does not result in a whole number of mills, then the calculation must be rounded up to the nearest whole mill.

(9) (a) The provisions of subsection (1) do not prevent or restrict:

(i) a judgment levy under 2-9-316, 7-6-4015, or 7-7-2202;

(ii) a levy to repay taxes paid under protest as provided in 15-1-402; or

(iii) an emergency levy authorized under 10-3-405, 20-9-168, or 20-15-326.

(b) A levy authorized under subsection (9)(a) may not be included in the amount of property taxes actually assessed in a subsequent year.

(10) A mill levy reduction resulting from tax relief because of imposition of a local option sales tax, as provided in [sections 49 through 54], may not be reinstated while the local option sales tax is in effect unless the levy increase is approved at an election pursuant to 15-10-425.

~~(10)(11)~~ A governmental entity may levy mills for the support of airports as authorized in 67-10-402, 67-11-301, or 67-11-302 even though the governmental entity has not imposed a levy for the airport or the airport authority in either of the previous 2 years and the airport or airport authority has not been appropriated operating funds by a county or municipality during that time.

~~(11)(12)~~ The department may adopt rules to implement this section. The rules may include a method

for calculating the percentage of change in valuation for purposes of determining the elimination of property, new improvements, or newly taxable property in a governmental unit."

Section 11. Section 15-24-1402, MCA, is amended to read:

"15-24-1402. New or expanding industry -- assessment -- notification. (1) In the first 5 years after a construction permit is issued, qualifying improvements or modernized processes that represent new industry or expansion of an existing industry, as designated in the approving resolution, must be taxed at 50% of their taxable value. Subject to 15-10-420, each succeeding year ~~thereafter~~, the percentage must be increased by equal percentages until the full taxable value is attained in the 10th year. In subsequent years, the property must be taxed at 100% of its taxable value.

(2) (a) In order for a taxpayer to receive the tax benefits described in subsection (1), the governing body of the affected county or the incorporated city or town must have approved by separate resolution for each project, following due notice as defined in 76-15-103 and a public hearing, the use of the schedule provided for in subsection (1) for its respective jurisdiction. The governing body may not grant approval for the project until all of the applicant's taxes have been paid in full. Taxes paid under protest do not preclude approval.

(b) Subject to 15-10-420, the governing body may end the tax benefits by majority vote at any time, but the tax benefits may not be denied an industrial facility that previously qualified for the benefits.

(c) The resolution provided for in subsection (2)(a) must include a definition of the improvements or modernized processes that qualify for the tax treatment that is to be allowed in the taxing jurisdiction. The resolution may provide that real property other than land, personal property, improvements, or any combination ~~thereof~~ of land, personal property, or improvements is eligible for the tax benefits described in subsection (1).

(3) The taxpayer shall apply to the department for the tax treatment allowed under subsection (1). The application by the taxpayer must first be approved by the governing body of the appropriate local taxing jurisdiction, and the governing body shall indicate in its approval that the property of the applicant qualifies for the tax treatment provided for in this section. Upon receipt of the form with the approval of the governing body of the affected taxing jurisdiction, the department shall make the assessment change pursuant to this section.

(4) The tax benefit described in subsection (1) applies only to the number of mills levied and assessed for local high school district and elementary school district purposes and to the number of mills levied and assessed by the governing body approving the benefit over which the governing body has sole discretion. The benefit described in subsection (1) may not apply to levies or assessments ~~required under Title 15, chapter 10,~~

~~20-9-331, 20-9-333, or 20-9-360 or otherwise~~ required under state law.

(5) Prior to approving the resolution under this section, the governing body shall notify by certified mail all taxing jurisdictions affected by the tax benefit."

Section 12. Section 15-24-1703, MCA, is amended to read:

"15-24-1703. Application of suspension or cancellation. The suspension or cancellation of delinquent property taxes pursuant to this part:

(1) applies to all mills levied in the county or otherwise required under state law, including levies or assessments required under Title 15, chapter 10, ~~20-9-331, 20-9-333, and 20-25-423;~~

(2) does not apply to assessments made against property for the payment of bonds issued pursuant to Title 7, chapter 12."

Section 13. Section 15-24-1802, MCA, is amended to read:

"15-24-1802. Business incubator tax exemption -- procedure. (1) A business incubator owned or leased and operated by a local economic development organization is eligible for an exemption from property taxes as provided in this section.

(2) In order to qualify for the tax exemption described in this section, the governing body of the county, consolidated government, incorporated city or town, or school district in which the property is located shall approve the tax exemption by resolution, after due notice, as defined in 76-15-103, and hearing. The governing body may approve or disapprove the tax exemption provided for in subsection (1). If a tax exemption is approved, the governing body shall do so by a separate resolution for each business incubator in its respective jurisdiction. The governing body may not grant approval for the business incubator until all of the applicant's taxes have been paid in full or, if the property is leased to a business incubator, until all of the owner's property taxes on that property have been paid in full. Taxes paid under protest do not preclude approval. Prior to holding the hearing, the governing body shall determine that the local economic development organization:

(a) is a private, nonprofit corporation as provided in Title 35, chapter 2, and is exempt from taxation under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code;

(b) is engaged in economic development and business assistance work in the area; and

(c) owns or leases and operates or will operate the business incubator.

(3) Upon receipt of approval of the governing body of the affected taxing jurisdiction, the department

1 shall make the assessment change for the tax exemption provided for in this section.

2 (4) The tax exemption described in subsection (1) applies only to the number of mills levied and
3 assessed by the governing body approving the exemption over which the governing body has sole discretion.
4 If the governing body of a county, consolidated government, or incorporated city or town approves the
5 exemption, the exemption applies to levies and assessments ~~required under Title 15, chapter 10, 20-9-331, or~~
6 ~~20-9-333 or otherwise~~ required under state law."

7
8 **Section 14.** Section 15-24-1902, MCA, is amended to read:

9 **"15-24-1902. Industrial park tax exemption -- procedure -- termination.** (1) An industrial park owned
10 and operated by a local economic development organization or a port authority is eligible for an exemption from
11 property taxes as provided in this section.

12 (2) In order to qualify for the tax exemption described in this section, the governing body of the county,
13 consolidated government, incorporated city or town, or school district in which the property is located shall
14 approve the tax exemption by resolution, after due notice, as defined in 76-15-103, and hearing. The governing
15 body may approve or disapprove the tax exemption provided for in subsection (1). If a tax exemption is
16 approved, the governing body shall do so by a separate resolution for each industrial park in its respective
17 jurisdiction. The governing body may not grant approval for the industrial park until all of the applicant's taxes
18 have been paid in full. Taxes paid under protest do not preclude approval. Prior to holding the hearing, the
19 governing body shall determine that:

20 (a) the local economic development organization:

21 (i) is a private, nonprofit corporation as provided in Title 35, chapter 2, and is exempt from taxation
22 under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code;

23 (ii) is engaged in economic development and business assistance work in the area; and

24 (iii) owns and operates or will own and operate the industrial development park; or

25 (b) the port authority legally exists under the provisions of 7-14-1101 or 7-14-1102.

26 (3) Upon receipt of approval of the governing body of the affected taxing jurisdiction, the department
27 shall make the assessment change for the tax exemption provided for in this section.

28 (4) The tax exemption described in subsection (1) applies only to the number of mills levied and
29 assessed by the governing body approving the exemption over which the governing body has sole discretion.
30 If the governing body of a county, consolidated government, or incorporated city or town approves the

1 exemption, the exemption applies to levies or assessments required under Title 15, chapter 10, 20-9-331, or
2 ~~20-9-333 or otherwise required~~ under state law.

3 (5) If a local economic development organization sells, leases, or otherwise disposes of the exempt
4 property to a purchaser or lessee that is not a local economic development organization or a unit of federal,
5 state, or local government, the tax exemption provided in this section terminates. The termination of the
6 exemption applies January 1 of the taxable year immediately following the sale, lease, or other disposition of
7 the property. Upon termination of the exemption, the property must be assessed as provided in 15-16-203."

8
9 **Section 15.** Section 15-24-2002, MCA, is amended to read:

10 **"15-24-2002. Building and land tax exemption -- procedure -- termination.** (1) A building and land
11 owned by a local economic development organization that the local economic development organization intends
12 to sell or lease to a profit-oriented, employment-stimulating business are eligible for an exemption from property
13 taxes as provided in this section.

14 (2) In order to qualify for the tax exemption described in this section, the governing body of the affected
15 county, consolidated government, incorporated city or town, or school district in which the building and land are
16 located shall approve the tax exemption by resolution, after due notice, as defined in 76-15-103, and hearing.
17 The governing body may approve or disapprove the tax exemption provided for in subsection (1). The governing
18 body shall approve a tax exemption by a separate resolution. The governing body may not grant approval for
19 the building and land until all of the applicant's taxes have been paid in full. Taxes paid under protest do not
20 preclude approval. Prior to holding the hearing, the governing body shall determine that the local economic
21 development organization:

22 (a) is a private, nonprofit corporation, as provided in Title 35, chapter 2, and is exempt from taxation
23 under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code;

24 (b) is engaged in economic development and business assistance work in the area; and

25 (c) owns or will own the building and land.

26 (3) Upon receipt of approval of the governing body of the affected taxing jurisdiction, the department
27 shall make the assessment change for the tax exemption provided for in this section.

28 (4) The tax exemption described in subsection (1) applies only to the number of mills levied and
29 assessed by the governing body approving the exemption over which the governing body has sole discretion.
30 If the governing body of a county, consolidated government, or incorporated city or town approves the

1 exemption, the exemption applies to levies or assessments required under ~~Title 15, chapter 10, 20-9-331, or~~
2 ~~20-9-333 and other levies required under~~ state law.

3 (5) When a local economic development organization sells, leases, or otherwise disposes of the exempt
4 property to a purchaser or lessee that is not a local economic development organization or a unit of federal,
5 state, or local government, the tax exemption provided in this section terminates. The termination of the
6 exemption applies January 1 of the taxable year immediately following the sale, lease, or other disposition of
7 the property. Upon termination of the exemption, the property must be assessed as provided in 15-16-203."

8
9 **NEW SECTION. Section 16. Tax credit for sales tax and use tax paid.** (1) An individual is allowed
10 a REFUNDABLE tax credit against the taxes imposed by 15-30-103 for sales tax and use tax payments. The
11 amount of the credit under this section is determined under subsection (2).

12 (2) A taxpayer may choose to determine the amount of credit allowed under this section under either
13 subsection (2)(a) or (2)(b):

14 (a) the actual substantiated amount of sales tax and use tax paid by the taxpayer under Title 15, chapter
15 68, not to exceed 1.25% of the amount established in subsection (3), plus \$80; or

16 (b) an amount equal to 1.25% of the amount of the taxpayer's adjusted gross income determined under
17 subsection (3), plus any tax-exempt interest, veterans' benefits, nontaxable combat pay, workers' compensation,
18 nontaxable part of social security and railroad retirement benefits, and nontaxable part of individual retirement
19 account, pension, or annuity distributions that are not rollovers of a distribution.

20 (3) The amount used for determining the credit under subsection (2) is the median amount of adjusted
21 gross income for Montana individual income tax returns for full-time resident taxpayers for the tax year ending
22 December 31 of the prior calendar year. The department shall determine the amount by November 1 of each
23 year for that tax year.

24
25 **Section 17.** Section 15-36-331, MCA, is amended to read:

26 **"15-36-331. Distribution of taxes.** (1) (a) For each calendar quarter, the department shall determine
27 the amount of tax, late payment interest, and penalties collected under this part.

28 (b) For the purposes of distribution of oil and natural gas production taxes to county and school district
29 taxing units under 15-36-332 and to the state, the department shall determine the amount of oil and natural gas
30 production taxes paid on production in the taxing unit.

(2) The amount of oil and natural gas production taxes collected for the privilege and license tax pursuant to 82-11-131 must be deposited, in accordance with the provisions of 15-1-501, in the state special revenue fund for the purpose of paying expenses of the board, as provided in 82-11-135.

(3) (a) For tax year ~~2003~~ 2005 and succeeding tax years, the amount of oil and natural gas production taxes determined under subsection (1)(b) plus the phased-out amount distributed pursuant to 15-36-324(12)(b) as that section read on December 31, 2002, is allocated to each county according to the following schedule:

	2003	2004	2005	2006 and succeeding tax years
Big Horn	45.03%	45.04%	45.04%	45.05%
Blaine	57.56%	57.84%	58.11%	58.39%
Carbon	50.24%	49.59%	48.93%	48.27%
Chouteau	56.67%	57.16%	57.65%	58.14%
Custer	103.63%	92.27%	80.9%	69.53%
Daniels	48.31%	49.15%	49.98%	50.81%
Dawson	56.32%	53.48%	50.64%	47.79%
Fallon	39.89%	40.52%	41.15%	41.78%
Fergus	112.2%	97.86%	83.52%	69.18%
Garfield	54.51%	51.66%	48.81%	45.96%
Glacier	76.56%	70.65%	64.74%	58.83%
Golden Valley	55.5%	56.45%	57.41%	58.37%
Hill	66.97%	66.15%	65.33%	64.51%
Liberty	63.32%	61.53%	59.73%	57.94%
McCone	58.75%	55.81%	52.86%	49.92%
Musselshell	57.06%	54.25%	51.44%	48.64%
Petroleum	67.8%	61.21%	54.62%	48.04%
Phillips	53.3%	53.54%	53.78%	54.02%
Pondera	104.14%	87.51%	70.89%	54.26%
Powder River	64.7%	63.44%	62.17%	60.9%
Prairie	38.43%	39.08%	39.73%	40.38%

1	Richland	45.23%	45.97%	46.72%	47.47%
2	Roosevelt	46.75%	46.4%	46.06%	45.71%
3	Rosebud	37.41%	38.05%	38.69%	39.33%
4	Sheridan	46.64%	47.09%	47.54%	47.99%
5	Stillwater	56.05%	55.2%	54.35%	53.51%
6	Sweet Grass	58.23%	59.24%	60.24%	61.24%
7	Teton	53.01%	50.71%	48.4%	46.1%
8	Toole	56.2%	56.67%	57.14%	57.61%
9	Valley	59.82%	57.02%	54.22%	51.43%
10	Wibaux	47.71%	48.19%	48.68%	49.16%
11	Yellowstone	50.69%	49.37%	48.06%	46.74%
12	All other counties	50.15%	50.15%	50.15%	50.15%

13 (b) The oil and natural gas production taxes allocated to each county must be deposited in the state
 14 special revenue fund and transferred to each county for distribution, as provided in 15-36-332.

15 (4) The department shall, in accordance with the provisions of 15-1-501, distribute the state portion of
 16 oil and natural gas production taxes remaining after the distributions pursuant to subsections (2) and (3) as
 17 follows:

18 ~~_____ (a) for the fiscal year ending June 30, 2003, to be distributed as follows:~~

19 ~~_____ (i) a total of \$400,000 to the coal bed methane protection account established in 76-15-904; and~~

20 ~~_____ (ii) all remaining proceeds to the state general fund;~~

21 ~~(b)(a) for the each fiscal year beginning July 1, 2003, through the fiscal year ending June 30, 2011, to~~
 22 ~~be distributed as follows:~~

23 (i) 1.23% to the coal bed methane protection account established in 76-15-904;

24 (ii) 2.95% to the reclamation and development grants special revenue account established in 90-2-1104;

25 (iii) 2.95% to the orphan share account established in 75-10-743; and

26 ~~(iv) 2.65% to the state special revenue fund to be appropriated to the Montana university system for the~~
 27 ~~purposes of the state tax levy as provided in 20-25-423; and~~

28 ~~(v)(iv)~~ all remaining proceeds to the state general fund;

29 ~~(e)(b)~~ for fiscal years beginning after June 30, 2011, to be distributed as follows:

30 (i) 4.18% to the reclamation and development grants special revenue account established in 90-2-1104;

1 (ii) 2.95% to the orphan share account established in 75-10-743; and
2 ~~(iii) 2.65% to the state special revenue fund to be appropriated to the Montana university system for the~~
3 ~~purposes of the state tax levy as provided in 20-25-423; and~~
4 ~~(iv)~~(iii) all remaining proceeds to the state general fund."
5

6 **Section 18.** Section 15-68-101, MCA, is amended to read:

7 **"15-68-101. Definitions.** For purposes of this chapter, unless the context requires otherwise, the
8 following definitions apply:

9 (1) (a) "Accommodations" means a building or structure containing individual sleeping rooms or suites
10 that provides overnight lodging facilities for periods of less than 30 days to the general public for compensation.

11 (b) Accommodations includes a facility represented to the public as a hotel, motel, campground, resort,
12 dormitory, condominium inn, dude ranch, guest ranch, hostel, public lodginghouse, or bed and breakfast facility.

13 (c) The term does not include a health care facility, as defined in 50-5-101, any facility owned by a
14 corporation organized under Title 35, chapter 2 or 3, that is used primarily by persons under 18 years of age for
15 camping purposes, any hotel, motel, hostel, public lodginghouse, or bed and breakfast facility whose average
16 daily accommodation charge for single occupancy does not exceed 60% of the amount authorized under
17 2-18-501 for the actual cost of lodging for travel within the state of Montana, or any other facility that is rented
18 solely on a monthly basis or for a period of 30 days or more.

19 (2) (a) "Admission" means payment made for the privilege of being admitted to a facility, place, or event.

20 (b) The term does not include payment for admittance to a movie theater or to a sporting event
21 sanctioned by a school district, ~~college, or university.~~

22 (3) "Agreement" means the Streamlined Sales and Use Tax Agreement provided for under [sections
23 55 through 62].

24 (4) "Alcoholic beverages" means beverages that are suitable for human consumption and contain 1/2
25 of 1% or more of alcohol by volume.

26 ~~(3)~~(5) (a) "Base rental charge" means the following:

27 (i) charges for time of use of the rental vehicle and mileage, if applicable;

28 (ii) charges accepted by the renter for personal accident insurance;

29 (iii) charges for additional drivers or underage drivers; and

30 (iv) charges for child safety restraints, luggage racks, ski racks, or other accessory equipment for the

1 rental vehicle.

2 (b) The term does not include:

3 (i) rental vehicle price discounts allowed and taken;

4 (ii) rental charges or other charges or fees imposed on the rental vehicle owner or operator for the
5 privilege of operating as a concessionaire at an airport terminal building;

6 (iii) motor fuel;

7 (iv) intercity rental vehicle drop charges; or

8 (v) taxes imposed by the federal government or by state or local governments.

9 ~~(4)(6)~~ (a) "Campground" means a place used for public camping where persons may camp, secure
10 tents, or park individual recreational vehicles for camping and sleeping purposes.

11 (b) The term does not include that portion of a trailer court, trailer park, or mobile home park intended
12 for occupancy by trailers or mobile homes for resident dwelling purposes for periods of 30 consecutive days or
13 more.

14 (7) (a) "Candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in
15 combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces.

16 (b) The term does not include any preparation that contains flour and that requires refrigeration.

17 (8) "Certified automated system" has the meaning provided in [section 56].

18 (9) "Certified service provider" has the meaning provided in [section 56].

19 (10) "Computer" means an electronic device that accepts information in a digital or similar form and
20 manipulates it for a result based on a sequence of instructions.

21 (11) "Computer software" means a set of coded instructions designed to cause a computer or automatic
22 data processing equipment to perform a task.

23 (12) "Delivery charges" means charges by the seller of personal property or services for preparation and
24 delivery to a location designated by the purchaser of personal property or services, including but not limited to
25 transportation, shipping, postage, handling, crating, and packing.

26 (13) "Dietary supplement" means any product, other than tobacco, intended to supplement the diet that:

27 (a) contains one or more of the following dietary ingredients:

28 (i) a vitamin;

29 (ii) a mineral;

30 (iii) an herb or other botanical;

1 (iv) an amino acid;

2 (v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake;

3 or

4 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in
5 subsections (13)(a)(i) through (13)(a)(v);

6 (b) is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form or, if not intended
7 for ingestion in such a form, is not represented as conventional food and is not represented for use as a sole
8 item of a meal or of the diet; and

9 (c) is required to be labeled as a dietary supplement, identifiable by the "supplemental facts" box found
10 on the label and as required pursuant to 21 CFR 101.36.

11 (14) "Drug" means a compound, substance, or preparation and any component of a compound,
12 substance, or preparation, other than food and food ingredients, dietary supplements, or alcoholic beverages:

13 (a) recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the
14 United States, or official National Formulary and any supplement to them;

15 (b) intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or

16 (c) intended to affect the structure or any function of the body.

17 (15) (a) "Durable medical equipment" means equipment, including repair and replacement parts for
18 equipment, that:

19 (i) can withstand repeated use;

20 (ii) is primarily and customarily used to serve a medical purpose;

21 (iii) generally is not useful to a person in the absence of illness or injury; and

22 (iv) is not worn in or on the body.

23 (b) The term does not include mobility-enhancing equipment.

24 (16) "Electronic" means technology that relates to having electrical, digital, magnetic, wireless, optical,
25 electromagnetic, or similar capabilities.

26 ~~(5)(17)~~ "Engaging in business" means carrying on or causing to be carried on any activity with the
27 purpose of receiving direct or indirect benefit.

28 (18) (a) "Food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen,
29 dried, or dehydrated form, that are sold for ingestion or chewing by humans and that are consumed for their taste
30 or nutritional value. The term includes alcoholic beverages, candy, dietary supplements, and soft drinks.

1 (b) The term does not include tobacco.

2 (19) "Food sold through vending machines" means food dispensed from a machine or other mechanical
3 device that accepts payment.

4 (20) "Grooming and hygiene products" means soaps and cleaning solutions, shampoo, toothpaste,
5 mouthwash, antiperspirants, and suntan lotions and sunscreens, regardless of whether the items meet the
6 definition of over-the-counter drugs.

7 (21) "Guided recreation and sightseeing" means recreational activities or sightseeing in which a service
8 provider, for payment, accompanies or provides direction or instruction to the purchaser.

9 ~~(6)(22)~~ (a) "Lease", "leasing", or "rental" means any transfer of possession or control of tangible personal
10 property for a fixed or indeterminate term for consideration. A lease or rental may include future options to
11 purchase or extend.

12 (b) Lease or rental includes agreements covering motor vehicles and trailers when the amount of
13 consideration may be increased or decreased by reference to the amount realized upon sale or disposition of
14 the property, as defined in 26 U.S.C. 7701(h)(1).

15 (c) The term does not include:

16 (i) a transfer of possession or control of property under a security agreement or deferred payment plan
17 that requires the transfer of title upon completion of the required payments;

18 (ii) a transfer of possession or control of property under an agreement that requires the transfer of title
19 upon completion of required payments and payment of an option price that does not exceed the greater of \$100
20 or 1% of the total required payments; or

21 (iii) providing tangible personal property with an operator if an operator is necessary for the equipment
22 to perform as designed and not just to maintain, inspect, or set up the tangible personal property.

23 (d) This definition must be used for sales tax and use tax purposes regardless of whether a transaction
24 is characterized as a lease or rental under generally accepted accounting principles, the Internal Revenue Code,
25 the Montana Uniform Commercial Code, or other provisions of federal, state, or local law.

26 (e) This definition must be applied only prospectively from the date of adoption and has no retroactive
27 impact on existing leases or rentals.

28 (23) "Maintaining an office or other place of business" means:

29 (a) a person having or maintaining within this state, directly or by a subsidiary, an office, distribution
30 house, sales house, warehouse, or place of business; or

1 (b) an agent operating within this state under the authority of the person or its subsidiary, whether the
2 place of business or agent is located within the state permanently or temporarily or whether or not the person
3 or its subsidiary is authorized to do business within this state.

4 (24) (a) "Manufacturing" means combining or processing components or materials, including the
5 processing of ores in a mill, smelter, refinery, or reduction facility, to increase their value for sale in the ordinary
6 course of business.

7 (b) The term does not include construction.

8 (25) (a) "Mobility-enhancing equipment" means equipment, including repair and replacement parts, that:

9 (i) is primarily and customarily used to provide or increase the ability to move from one place to another
10 and that is appropriate for use either in a home or in a motor vehicle;

11 (ii) is not generally used by persons with normal mobility; and

12 (iii) does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor
13 vehicle manufacturer.

14 (b) The term does not include durable medical equipment.

15 ~~(7)~~(26) (a) "Motor vehicle" means a light vehicle as defined in 61-1-139, a motorcycle as defined in
16 61-1-105, a motor-driven cycle as defined in 61-1-106, a quadricycle as defined in 61-1-133, a motorboat or a
17 sailboat as defined in 23-2-502, or an off-highway vehicle as defined in 23-2-801 that:

18 (i) is rented for a period of not more than 30 days;

19 (ii) is rented without a driver, pilot, or operator; and

20 (iii) is designed to transport 15 or fewer passengers.

21 (b) Motor vehicle includes:

22 (i) a rental vehicle rented pursuant to a contract for insurance; and

23 (ii) a truck, trailer, or semitrailer that has a gross vehicle weight of less than 22,000 pounds, that is rented
24 without a driver, and that is used in the transportation of personal property.

25 (c) The term does not include farm vehicles, machinery, or equipment.

26 (27) (a) "Over-the-counter drug" means a drug that contains a label that identifies the product as a drug,
27 as required by 21 CFR 201.66.

28 (b) An over-the-counter drug label includes:

29 (i) a drug facts panel; or

30 (ii) a statement of the active ingredients with a list of those ingredients contained in the compound,

1 substance, or preparation.

2 (c) The term does not include grooming and hygiene products.

3 (8) "Permit" or "seller's permit" means a seller's permit as described in 15-68-401.

4 (9)(28) "Person" means an individual, estate, trust, fiduciary, corporation, partnership, limited liability
5 company, limited liability partnership, or any other legal entity.

6 (29) (a) "Prepared food" means:

7 (i) food sold in a heated state or heated by the seller;

8 (ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or

9 (iii) food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses,
10 cups, napkins, or straws. A plate does not include a container or packaging used to transport the food.

11 (b) The term does not include food that is only cut, repackaged, or pasteurized by the seller and eggs,
12 fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer, as
13 recommended by the United States food and drug administration in chapter 3, part 401.11, of its Food Code,
14 so as to prevent food-borne illnesses.

15 (30) "Prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or
16 other means of transmission by a licensed practitioner as authorized by the laws of Montana.

17 (31) "Prosthetic device" means a replacement, corrective, or supportive device, including repair and
18 replacement parts, worn on or in the body to:

19 (a) artificially replace a missing portion of the body;

20 (b) prevent or correct a physical deformity or malfunction; or

21 (c) support a weak or deformed portion of the body.

22 (10)(32) "Purchaser" means a person to whom a sale of personal property is made or to whom a service
23 is furnished.

24 (33) (a) "Recreation fees" means money paid for participating in or observing sporting, athletic, or
25 recreational activities.

26 (b) The term does not include money paid to observe a sporting event sanctioned by a school district.

27 (34) "Registration" or "seller's registration" means a seller's registration as described in 15-68-401.

28 (11)(35) "Rental vehicle" means a motor vehicle that is used for or by a person other than the owner of
29 the motor vehicle through an arrangement and for consideration.

30 (12)(36) "Retail sale" means any sale, lease, or rental for any purpose other than for resale, sublease,

1 or subrent.

2 ~~(13)~~(37) "Sale" or "selling" means the transfer of property for consideration or the performance of a
3 service for consideration.

4 ~~(14)~~(38) (a) "Sales price" applies to the measure subject to sales tax and means the total amount or
5 consideration, including cash, credit, property, and services, for which personal property or services are sold,
6 leased, or rented or valued in money, whether received in money or otherwise, without any deduction for the
7 following:

8 (i) the seller's cost of the property sold;

9 (ii) the cost of materials used, labor or service costs, interest, losses, all costs of transportation to the
10 seller, all taxes imposed on the seller, and any other expense of the seller;

11 (iii) charges by the seller for any services necessary to complete the sale, other than delivery and
12 installation charges;

13 (iv) delivery charges;

14 (v) installation charges;

15 (vi) the value of exempt personal property given to the purchaser when taxable and exempt personal
16 property have been bundled together and sold by the seller as a single product or piece of merchandise; and

17 (vii) credit for any trade-in.

18 (b) The amount received for charges listed in subsections ~~(14)(a)(iii)~~ (38)(a)(iii) through ~~(14)(a)(vii)~~
19 (38)(a)(vii) are excluded from the sales price if they are separately stated on the invoice, billing, or similar
20 document given to the purchaser.

21 (c) The term does not include:

22 (i) discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed
23 by a seller and taken by a purchaser on a sale;

24 (ii) interest, financing, and carrying charges from credit extended on the sale of personal property or
25 services if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;

26 or

27 (iii) any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of
28 sale, or similar document given to the purchaser.

29 (d) In an exchange in which the money or other consideration received does not represent the value
30 of the property or service exchanged, sales price means the reasonable value of the property or service

1 exchanged.

2 (e) When the sale of property or services is made under any type of charge or conditional or time-sales
3 contract or the leasing of property is made under a leasing contract, the seller or lessor shall treat the sales price,
4 excluding any type of time-price differential, under the contract as the sales price at the time of the sale.

5 ~~(15)(39)~~ "Sales tax" and "use tax" mean the applicable tax imposed by 15-68-102.

6 ~~(16)(40)~~ "Seller" means a person that makes sales, leases, or rentals of personal property or services.

7 ~~(17)(41)~~ (a) "Service" means an activity that is engaged in for another person for consideration and that
8 is distinguished from the sale or lease of property. Service includes activities performed by a person for its
9 members or shareholders.

10 (b) In determining what a service is, the intended use, principal objective, or ultimate objective of the
11 contracting parties is irrelevant.

12 (42) "Sightseeing" means engaging in a tour or trip for pleasure or culture.

13 (43) (a) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners.

14 (b) The term does not include beverages that contain milk or milk products, soy, rice or similar milk
15 substitutes, or greater than 50% of vegetable or fruit juice by volume.

16 (44) "Sporting, athletic, or recreational activities" are activities commonly performed for pleasure,
17 competition, or fitness purposes. The following list is intended to be examples of these activities and not an
18 all-inclusive list:

19 (a) horseback riding;

20 (b) climbing, trekking, and mountaineering;

21 (c) biking;

22 (d) golfing;

23 (e) baseball, football, hockey, volleyball, tennis, basketball, and soccer;

24 (f) hunting and fishing;

25 (g) boating, canoeing, jet skiing, rafting, kayaking, and parasailing;

26 (h) camping and backpacking;

27 (i) swimming and diving;

28 (j) bowling and ice skating;

29 (k) skiing, snowmobiling, snowboarding, and snowshoeing;

30 (l) hang gliding and ballooning;

1 (m) motorcycling, four-wheeling, and riding all-terrain vehicles;

2 (n) guided recreation and sightseeing.

3 (45) "Tangible personal property" means personal property that can be seen, weighed, measured, felt,
4 or touched or that is in any other manner perceptible to the senses. Tangible personal property includes
5 electricity, water, gas, steam, and computer software.

6 (46) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains
7 tobacco.

8 ~~(18)~~(47) "Use" or "using" includes use, consumption, or storage, other than storage for resale or for use
9 solely outside this state, in the ordinary course of business.

10 (48) "Used clothing" means all human wearing apparel suitable for general use that was previously sold
11 at retail."

12
13 **Section 19.** Section 15-68-102, MCA, is amended to read:

14 **"15-68-102. Imposition and rate of sales tax and use tax -- exceptions.** (1) A sales tax of the
15 following percentages is imposed on sales of the following property or services:

16 (a) 3% on:

17 (i) all sales of tangible personal property;

18 (ii) fees for sporting, recreation, and sightseeing activities;

19 (iii) admissions and recreation fees; and

20 (iv) accommodations and campgrounds;

21 (b) 4% on the base rental charge for rental vehicles.

22 (2) The sales tax is imposed on the purchaser and must be collected by the seller and paid to the
23 department by the seller. The seller holds all sales taxes collected in trust for the state. The sales tax must be
24 applied to the sales price.

25 (3) (a) For the privilege of using property or services within this state, there is imposed on the person
26 using the following property or services a use tax equal to the following percentages of the value of the property
27 or services:

28 (i) 3% on:

29 (A) all sales of tangible personal property;

30 (B) fees for sporting, recreation, and sightseeing activities;

1 (C) admissions and recreation fees; and

2 (D) accommodations and campgrounds;

3 (ii) 4% on the base rental charge for rental vehicles.

4 (b) The use tax is imposed on property or services that were:

5 (i) acquired outside this state as the result of a transaction that would have been subject to the sales
6 tax had it occurred within this state;

7 (ii) acquired within the exterior boundaries of an Indian reservation within this state as a result of a
8 transaction that would have been subject to the sales tax had it occurred outside the exterior boundaries of an
9 Indian reservation within this state;

10 (iii) acquired as the result of a transaction that was not initially subject to the sales tax imposed by
11 subsection (1) or the use tax imposed by subsection (3)(a) but which transaction, because of the buyer's
12 subsequent use of the property, is subject to the sales tax or use tax; or

13 (iv) rendered as the result of a transaction that was not initially subject to the sales tax or use tax but that
14 because of the buyer's subsequent use of the services is subject to the sales tax or use tax.

15 (4) For purposes of this section, the value of property must be determined as of the time of acquisition,
16 introduction into this state, or conversion to use, whichever is latest.

17 (5) The sale or use of property or services exempt or nontaxable under this chapter is exempt from the
18 tax imposed in subsections (1) and (3).

19 ~~(6) Lodging facilities and campgrounds are exempt from the tax imposed in subsections (1)(a) and~~
20 ~~(3)(a)(i) until October 1, 2003, for contracts entered into prior to April 30, 2003, that provide for a guaranteed~~
21 ~~charge for accommodations or campgrounds."~~

22
23 **NEW SECTION. Section 20. Credit -- out-of-state taxes.** If a sales tax, use tax, or similar tax has
24 been levied by another state or a political subdivision of another state on property that was bought outside this
25 state but that will be used or consumed within this state and the tax was paid by the current user, the amount
26 of tax paid may be credited against any use tax due this state on the same property. The credit may not exceed
27 the sales tax or use tax due this state.

28
29 **Section 21.** Section 15-68-110, MCA, is amended to read:

30 **"15-68-110. Collection of sales tax and use tax -- listing of business locations and agents --**

1 **severability.** (1) A Except when the purchaser has a direct payment permit as provided in [section 22], a person
2 engaging in the business of selling property or services subject to taxation under this chapter shall collect the
3 sales tax from the purchaser and pay the sales tax collected to the department.

4 (2) (a) A person that solicits or exploits the consumer market within this state by regularly and
5 systematically performing an activity within this state and whose sales are not subject to the sales tax shall
6 collect the use tax from the purchaser and pay the use tax collected to the department.

7 (b) "Activity", for the purposes of this section, includes but is not limited to engaging in any of the
8 following within this state:

9 (i) maintaining an office or other place of business that solicits orders through employees or
10 independent contractors;

11 (ii) canvassing;

12 (iii) demonstrating;

13 (iv) collecting money;

14 (v) warehousing or storing merchandise;

15 (vi) delivering or distributing products as a consequence of an advertising or other sales program
16 directed at potential customers;

17 (vii) to the extent permitted by federal law, soliciting orders for property by means of telecommunications
18 or a television shopping system or by providing telecommunications services that use toll or toll-free numbers
19 and that are intended to be broadcast by cable television or other means to consumers within this state;

20 (viii) soliciting orders, pursuant to a contract with a broadcaster or publisher located within this state, for
21 property by means of advertising disseminated primarily to consumers located within this state and only
22 secondarily to bordering jurisdictions;

23 (ix) soliciting orders for property by mail through the distribution of catalogs, periodicals, advertising
24 flyers, or other advertising;

25 (x) soliciting orders, pursuant to a contract with a cable television operator located within this state, for
26 tangible personal property by means of advertising transmitted or distributed over a cable television system
27 within this state; or

28 (xi) participating in an act that benefits from banking, financing, debt collection, telecommunications, or
29 marketing activities occurring within this state or that benefits from the location within this state of authorized
30 installation, servicing, or repair facilities.

1 (3) Multistate registration pursuant to the agreement may not be used as a factor to determine whether
2 the person is conducting an activity within the state subjecting the person to the sales tax or use tax.

3 ~~(2)(4)~~ A person engaging in business within this state shall, before making any sales subject to this
4 chapter, ~~obtain a seller's permit~~ register as a seller, as provided in 15-68-401, and at the time of making a sale,
5 whether within or outside the state, collect the sales tax imposed by 15-68-102 from the purchaser and give to
6 the purchaser a receipt, in the manner and form prescribed by rule, for the sales tax paid.

7 ~~(3)(5)~~ The department may authorize the collection of the sales tax imposed by 15-68-102 by any
8 retailer who does not maintain a place of business within this state but who, to the satisfaction of the department,
9 is in compliance with the law. When authorized, the person shall collect the use tax upon all property and
10 services that, to the person's knowledge, are for use within this state and subject to taxation under this chapter.

11 ~~(4)(6)~~ All sales tax and use tax required to be collected and all sales tax and use tax collected by any
12 person under this chapter constitute a debt owed to this state by the person required to collect the sales tax and
13 use tax.

14 ~~(5)(7)~~ A person engaging in business within this state that is subject to this chapter shall provide to the
15 department:

16 (a) the names and addresses of all of the person's agents operating within this state; and

17 (b) the location of each of the person's distribution houses or offices, sales houses or offices, and other
18 places of business within this state.

19 ~~(6)(8)~~ If any application of this section is held invalid, the application to other situations or persons is
20 not affected."

21
22 **NEW SECTION. Section 22. Direct payment of sales tax -- direct payment permits.** (1) The
23 department may issue direct payment permits to any person liable for the payment of more than \$500 a year
24 in sales tax. A person shall apply to the department for a permit, on forms approved by the department. By
25 applying for a direct payment permit, the applicant acknowledges that the applicant assumes all obligations to
26 pay any sales tax due under this chapter made by the applicant as a direct payment permitholder. A direct
27 payment permit may be revoked by the department at any time upon 90 days' written notice to the permitholder.
28 A permitholder may be audited by the department.

29 (2) A direct payment permitholder shall pay any sales tax authorized under this chapter directly to the
30 department. The permitholder must receive a nontaxable transaction certificate, as provided in 15-68-202, using

1 the direct payment permit as a basis for the exemption.

2
3 **Section 23.** Section 15-68-201, MCA, is amended to read:

4 **"15-68-201. Nontaxable transaction certificate -- requirements.** (1) A nontaxable transaction
5 certificate executed by a buyer or lessee must be in the possession of the seller or lessor at the time that a
6 nontaxable transaction occurs.

7 (2) A nontaxable transaction certificate must contain the information and be in the form prescribed by
8 the department.

9 (3) Only a buyer or lessee who has registered with the department and whose seller's permit registration
10 is valid may execute a nontaxable transaction certificate.

11 (4) If the seller or lessor accepts a nontaxable transaction certificate within the required time and
12 believes in good faith that the buyer or lessee will employ the property or service transferred in a nontaxable
13 manner, the properly executed nontaxable transaction certificate is considered conclusive evidence that the sale
14 is nontaxable. If an incorrect claim was made with the intent to evade the payment of the sales tax, the
15 purchaser is subject to the penalty provided in 15-68-410. If an incorrect claim was made in error, the purchaser
16 is subject to the payment of the sales tax or use tax."

17
18 **Section 24.** Section 15-68-202, MCA, is amended to read:

19 **"15-68-202. Nontaxable transaction certificate -- form.** (1) The department shall provide for a uniform
20 nontaxable transaction certificate. An electronic or digitally usable version of a nontaxable transaction certificate
21 may also be provided. A purchaser shall use the certificate when purchasing goods or services for resale or for
22 other nontaxable transactions.

23 (2) At a minimum, the certificate must provide:

24 (a) ~~the~~ a unique identification number of the seller's permit issued to the purchaser as provided in
25 ~~15-68-401;~~

26 (b) ~~the general character of property or service sold by the purchaser in the regular course of business;~~
27 nature of the exemption, such as the fact that:

28 ~~(e)~~(i) the property or service is purchased for resale;

29 (ii) the property or service is purchased for manufacturing;

30 (iii) the purchaser is authorized to make direct payments; or

1 (iv) the purchaser is an entity exempt from payment of sales tax;

2 ~~(d)(c)~~ the name and address of the purchaser; and

3 ~~(e)(d)~~ if it is a paper certificate, a signature line for the purchaser.

4 (3) The department shall adopt rules to provide procedures for application for and provision of a
5 certificate to a person engaging in business within this state ~~for renting accommodations and campgrounds prior~~
6 ~~to June 1, 2003, [the applicability date of this section] and renting vehicles prior to July 1, 2003.~~ The rules
7 adopted by the department must ensure that each person that is engaging in business within this state ~~for renting~~
8 ~~accommodations and campgrounds prior to June 1, 2003, and renting vehicles prior to July 1, 2003 [the~~
9 ~~applicability date of this section];~~ that has applied in a timely fashion is issued a certificate ~~for renting~~
10 ~~accommodations and campgrounds prior to June 1, 2003, and renting vehicles prior to July 1, 2003 [the~~
11 ~~applicability date of this section]."~~

12
13 **Section 25.** Section 15-68-206, MCA, is amended to read:

14 **"15-68-206. Exemption -- government agencies -- utility services.** (1) All sales by or uses by the
15 United States or an agency or instrumentality of the United States or of this state, a political subdivision of this
16 state, an Indian tribe, or a foreign government are exempt from the sales tax and use tax.

17 (2) The sale of natural gas, water, electricity, telecommunications services, refuse collection, or other
18 utility services, whether or not provided by a government agency, is not subject to the sales tax and use tax."

19
20 **NEW SECTION. Section 26. Exemption -- food products.** (1) Except as provided in subsection (2),
21 the sale or use of food and food ingredients is exempt from the sales tax and use tax.

22 (2) The sale of prepared food and food sold through vending machines is taxable, but prepared food
23 offered or delivered as part of a residential living arrangement and consumed by an individual that is party to
24 the arrangement or by patients of a health care facility is exempt from the sales tax and use tax.

25
26 **NEW SECTION. Section 27. Exemption -- medicine, drugs, and certain devices.** The following are
27 exempt from the sales tax and use tax:

28 (1) prescription drugs, over-the-counter drugs, durable medical equipment, and mobility-enhancing
29 equipment; and

30 (2) insulin, oxygen, and therapeutic and prosthetic devices.

1

2 **NEW SECTION.** **Section 28. Exemption -- motor fuel.** (1) The sale and use of gasoline, ethanol
3 blended for fuel, and special fuel, including natural gas or propane, upon which tax has been paid or will be paid
4 under Title 15, chapter 70, are exempt from the sales tax and use tax.

5 (2) The sale and use of special fuel that is exempt from taxation under Title 15, chapter 70, part 3, are
6 exempt from the sales tax and use tax.

7

8 **NEW SECTION.** **Section 29. Exemption -- insurance premiums.** The premiums of an insurance
9 company, a health service corporation, a health maintenance organization, or a fraternal benefit society or of
10 a producer of the company, corporation, organization, or society are exempt from the sales tax.

11

12 **NEW SECTION.** **Section 30. Exemption -- dividends and interest.** The following are exempt from
13 the sales tax:

- 14 (1) interest on money loaned or deposited;
15 (2) dividends or interest from stocks, bonds, or securities;
16 (3) proceeds from the sale of stocks, bonds, or securities; and
17 (4) commissions or fees derived from the business of buying, selling, or promoting any stock, bond, or
18 security.

19

20 **Section 31.** Section 15-68-207, MCA, is amended to read:

21 **"15-68-207. Exemption -- isolated or occasional sale or lease of property.** The isolated or
22 occasional sale or lease of property by a person that is not regularly engaged in or that does not claim to be
23 engaged in the business of selling or leasing the same or a similar property is exempt from the sales tax and
24 use tax. Occasional sales include sales that are occasional but not continuous and that are made for the purpose
25 of fundraising by nonprofit organizations, including but not limited to youth clubs, service clubs, and fraternal
26 organizations."

27

28 **NEW SECTION.** **Section 32. Exemption -- personal effects -- used clothing.** (1) The use by an
29 individual of personal or household effects brought into the state for the establishment by the individual of an
30 initial residence within this state and the use of property brought into the state by a nonresident for the

1 nonresident's own nonbusiness use while temporarily within this state are exempt from the use tax.

2 (2) The sale of used clothing is exempt from the sales tax and use tax.

3
4 **NEW SECTION. Section 33. Exemption -- feed -- fertilizers.** The sale or use of the following when
5 used in the course of an agricultural business is exempt from the sales tax and use tax:

6 (1) feed for livestock;

7 (2) semen, ova, and embryos used in animal husbandry;

8 (3) seeds, roots, and bulbs;

9 (4) soil conditioners and fertilizers;

10 (5) insecticides, insects used to control weeds or the population of other insects, fungicides, weedicides,
11 and herbicides; and

12 (6) water for commercial irrigation.

13
14 **NEW SECTION. Section 34. Exemption -- agricultural products -- livestock feeding.** (1) (a) The
15 sale of livestock, live poultry, unprocessed agricultural products, hides, or pelts by a grower, producer, trapper,
16 or nonprofit marketing association is exempt from the sales tax.

17 (b) A person engaged in the business of buying and selling wool or mohair or of buying and selling
18 livestock on the person's own account and without the services of a broker, auctioneer, or other agent is
19 considered a producer for the purposes of subsection (1)(a).

20 (2) Sales from feeding, pasturing, penning, handling, or training livestock prior to sale are exempt from
21 the sales tax.

22
23 **NEW SECTION. Section 35. Exemption -- minerals -- exceptions.** (1) The sale or lease of interests
24 in minerals, as defined in 15-38-103, is exempt from the sales tax and use tax.

25 (2) Except as provided in subsections (5) and (6), the sale or use of a mineral, as defined in 15-38-103,
26 is exempt from the sales tax and use tax.

27 (3) Minerals used by the producer of the minerals for purposes of exploring for, producing, or
28 transporting minerals are exempt from the sales tax and use tax, except that the exemption does not include
29 refined petroleum products.

30 (4) The sale or use of platinum and palladium, whenever refined and preserved in coins, ingots, bars,

or other similar forms, is exempt from the sales tax and use tax.

(5) Minerals used as or integrated into jewelry, art, or sculpture or used as a decorative embellishment or adornment, either in their own right, in combination with other property, or after being refined, reduced, polished, cut, faceted, or otherwise processed, are not included in the exemption provided in this section.

(6) Minerals that are used for producing energy or that are used for conversion into energy are subject to the sales tax or use tax unless the energy is produced or converted for resale as a form of energy.

NEW SECTION. Section 36. Exemption -- certain chemicals, reagents, and substances. (1) The sale or use by a person of any chemical, reagent, or other substance that is normally used or consumed in the processing of ores or petroleum, in a mill, smelter, refinery, or reduction facility, or in acidizing oil wells is exempt from the sales tax and use tax.

(2) The sale or use of explosives, blasting material, or dynamite is not exempt from the sales tax and use tax.

NEW SECTION. Section 37. Nontaxability -- sale to miner or manufacturer. (1) The sale of property to a purchaser engaged in the business of mining or manufacturing is nontaxable if:

(a) the purchaser has an nontaxable transaction certificate; and

(b) (i) the purchaser incorporates the property as an ingredient or component part of the product in the business of mining or manufacturing; or

(ii) the purchaser uses the property to extract a mineral and the property is required to be abandoned in place, in accordance with state regulations, when production of the mineral from a mine or wellhead permanently ceases.

(2) For the purposes of this section, electrical energy or electricity used or consumed by electrolytic reduction used in the reduction or refinement of ores is considered a component part of the product.

NEW SECTION. Section 38. Nontaxability -- sale or lease of real property or improvements and lease of mobile homes. (1) (a) The sale or lease of real property or improvements is nontaxable.

(b) The lease or rental of a mobile home for a period of 1 month or more is nontaxable.

(2) The inclusion of furniture or appliances furnished by the landlord or lessor as part of a leased or rented dwelling, house, mobile home, cabin, condominium, or apartment is nontaxable.

1
2 **NEW SECTION. Section 39. Nontaxability -- transactions in interstate commerce -- certain**
3 **property used in interstate commerce.** The following are nontaxable:

4 (1) a transaction in interstate commerce to the extent that the imposition of the sales tax or use tax
5 would be unlawful under the United States constitution;

6 (2) the transmission of messages or conversations by radio when the transmissions originate from a
7 point outside this state and are received at a point within this state; and

8 (3) the sale of radio or television broadcast time if the advertising message is supplied by or on behalf
9 of a national or regional seller or an advertiser that does not have its principal place of business within this state
10 or that is not incorporated under the laws of this state.

11
12 **NEW SECTION. Section 40. Nontaxability -- sale of tangible personal property for leasing.** The
13 sale of tangible personal property, other than furniture or appliances, is nontaxable if:

14 (1) the sale is made to a purchaser that has a nontaxable transaction certificate;

15 (2) the purchaser is engaged in a business deriving more than 50% of its receipts from selling or leasing
16 property of the type leased; and

17 (3) the purchaser does not use the property in any manner, other than holding it for sale or lease or
18 selling or leasing it, either by itself or in combination with other property, in the ordinary course of business.

19
20 **Section 41.** Section 15-68-401, MCA, is amended to read:

21 **"15-68-401. Seller's permit registration.** (1) A person that wishes to engage in business within this
22 state that is subject to this chapter shall ~~obtain~~ file with the department an application for a seller's ~~permit~~
23 registration before engaging in business within this state.

24 (2) Registration may be directly with the department or through the multistate central registration system
25 as provided in the agreement. Sellers registered through the multistate central registration system agree to
26 collect and remit sales taxes and use taxes for taxable Montana sales and comply with audit and compliance
27 provisions established through the agreement.

28 ~~(2)~~(3) Upon an applicant's compliance with this chapter, the department shall issue to the applicant a
29 separate, numbered seller's permit registration for each location in which the applicant maintains an office or
30 other place of business within Montana. A permit registration is valid until revoked or suspended but is not

assignable. A permit registration is valid only for the person in whose name it is issued and for the transaction of business at the place designated. The permit registration must be conspicuously displayed at all times at the place for which it is issued.

~~(3)(4)~~ The department shall adopt rules to provide procedures for application for a seller's registration and a provision of a seller's permit to a person for registering sellers engaging in business within this state that is subject to this chapter ~~for renting accommodations and campgrounds prior to June 1, 2003, and renting vehicles prior to July 1, 2003~~ [the applicability date of this section]. The rules adopted by the department must ensure that each person engaging in business within this state ~~for renting accommodations and campgrounds prior to June 1, 2003, and renting vehicles prior to July 1, 2003;~~ [the applicability date of this section] has the opportunity to be registered ~~is issued a seller's permit for renting accommodations and campgrounds prior to June 1, 2003, and renting vehicles prior to July 1, 2003~~ [the applicability date of this section]. The department may adopt rules providing for seasonal permits registration."

Section 42. Section 15-68-402, MCA, is amended to read:

"15-68-402. Permit application Application for seller's registration -- requirements -- place of business -- form. (1) (a) A person that wishes to engage in the business of making retail sales or providing services in Montana that are subject to this chapter shall file with the department an application for a permit seller's registration. If the person has more than one location in which the person maintains an office or other place of business, an application may include multiple locations.

(b) An applicant who does not maintain an office or other place of business and who moves from place to place is considered to have only one place of business and shall attach the permit seller's registration to the applicant's cart, stand, truck, or other merchandising device.

(c) A vending machine operator who has more than one vending machine location is considered to have only one place of business for purposes of this section.

(2) Each person or class of persons required to file a return under this chapter, other than persons with direct payment permits and certified service providers, is required to file an application for a permit seller's registration.

~~(3) Each~~ An application for a permit seller's registration ~~must~~ may be on a either in electronic or paper form and must be prescribed by the department, ~~and~~ The application must meet the requirements of the multistate central registration system under the agreement even if the applicant intends to make local retail sales

1 only in Montana. The form must set forth the name under which the applicant intends to transact business, the
2 location of the applicant's place or places of business, and other information that the department may require.
3 The application must be filed by the owner if the owner is a natural person or by a person authorized to sign the
4 application if the owner is a corporation, partnership, limited liability company, or some other business entity."

5
6 **Section 43.** Section 15-68-405, MCA, is amended to read:

7 **"15-68-405. Revocation or suspension of permit seller's registration -- appeal.** (1) Subject to the
8 provisions of subsection (2), the department may, for reasonable cause, revoke or suspend any permit seller's
9 registration held by a person that fails to comply with the provisions of this chapter.

10 (2) The department shall provide dispute resolution on a proposed revocation or suspension pursuant
11 to 15-1-211.

12 (3) If a permit seller's registration is revoked, the department may not issue a new permit registration
13 except upon application accompanied by reasonable evidence of the intention of the applicant to comply with
14 the provisions of this chapter. The department may require security in addition to that authorized by 15-68-512
15 in an amount reasonably necessary to ensure compliance with this chapter as a condition for the issuance of
16 a new permit registration to the applicant.

17 (4) A person aggrieved by the department's final decision to revoke a permit seller's registration, as
18 provided in subsection (1), may appeal the decision to the state tax appeal board within 30 days after the date
19 on which the department issued its final decision."

20
21 **Section 44.** Section 15-68-501, MCA, is amended to read:

22 **"15-68-501. Liability for payment of tax -- security for retailer without place of business -- penalty.**

23 (1) Liability for the payment of the sales tax and use tax is not extinguished until the taxes have been paid to the
24 department.

25 (2) A retailer that does not maintain an office or other place of business within this state is liable for the
26 sales tax or use tax in accordance with this chapter and may be required to furnish adequate security, as
27 provided in 15-68-512, to ensure collection and payment of the taxes. When authorized and except as otherwise
28 provided in this chapter, the retailer is liable for the taxes upon all property sold and services provided in this
29 state in the same manner as a retailer who maintains an office or other place of business within this state. The
30 seller's permit registration provided for in 15-68-401 may be canceled at any time if the department considers

1 the security inadequate or believes that the taxes can be collected more effectively in another manner.

2 (3) An agent, canvasser, or employee of a retailer doing business within this state may not sell, solicit
3 orders for, or deliver any property or services within Montana unless the principal, employer, or retailer
4 possesses a seller's permit registration issued by the department. If an agent, canvasser, or employee violates
5 the provisions of this chapter, the person is subject to a fine of not more than \$100 for each separate transaction
6 or event."

7
8 **Section 45.** Section 15-68-502, MCA, is amended to read:

9 **"15-68-502. Returns -- payment -- authority of department.** (1) ~~Except as provided in subsection (2),~~
10 ~~on or before the last day of the month following the calendar quarter in which the transaction subject to the tax~~
11 ~~imposed by this chapter occurred, a return, on a form provided by the department, and payment of the tax for~~
12 ~~the preceding quarter must be filed with the department.~~ Each person engaged in business within this state or
13 using property or services within this state that are subject to tax under this chapter shall file a return. ~~A person~~
14 ~~making retail sales at two or more places of business shall file a separate return for each separate place of~~
15 ~~business.~~ Sellers that are registered under the agreement and that use either a certified automated system or
16 a certified service provider, as defined in [section 56], are subject to the reporting and payment provisions of
17 subsection (2) of this section. A person who has been issued a seasonal seller's registration shall file a return
18 and pay the tax on the date or dates set by the department. All other sellers are subject to the reporting and
19 payment provisions of subsection (3).

20 (2) (a) On or before the 20th day of each month, a return, in a form adopted by the department in
21 conformance with the agreement, with a remittance of the tax owed for the preceding month, must be filed with
22 the department. The filing and the remittance may be done electronically.

23 (b) The seller and any agent of the seller, for the purposes of reporting or paying the sales tax or use
24 tax, are subject to the audit and accountability provisions of the agreement.

25 ~~(2) A person who has been issued a seasonal seller's permit shall file a return and pay the tax on the~~
26 ~~date or dates set by the department.~~

27 (3) (a) For the purposes of the sales tax or use tax, a return must be filed by:

28 (i) a retailer required to collect the tax; ~~and~~

29 (ii) a purchaser with a direct payment permit; and

30 ~~(iii)~~ (iii) a person that:

1 (A) purchases any items the storage, use, or other consumption of which is subject to the sales tax or
2 use tax; and

3 (B) has not paid the tax to a retailer required to pay the tax.

4 (b) A return must be filed with and payment must be received by the department on or before the 20th
5 day of each month for taxes owed for sales occurring during the preceding month. A seller that has a tax liability
6 that averages less than \$100 a month may report and pay the tax on a quarterly basis and shall file the return
7 with payment received by the department before the 20th day of the month after the end of the quarter.

8 ~~(b)~~(c) Each return must be authenticated by the person filing the return or by the person's agent
9 authorized in writing to file the return.

10 (4) (a) A person required to collect and pay to the department the taxes imposed by this chapter shall
11 keep records, render statements, make returns, and comply with the provisions of this chapter and the rules
12 prescribed by the department. Each return or statement must include the information required by the rules of
13 the department. The department shall comply with the provisions of the agreement in determining reports and
14 records management requirements in reference to sellers that are registered under the agreement.

15 (b) For the purpose of determining compliance with the provisions of this chapter, the department is
16 authorized to examine or cause to be examined any books, papers, records, or memoranda relevant to making
17 a determination of the amount of tax due, whether the books, papers, records, or memoranda are the property
18 of or in the possession of the person filing the return or another person. In determining compliance, the
19 department may use statistical sampling and other sampling techniques consistent with generally accepted
20 auditing standards. The department may also:

21 (i) require the attendance of a person having knowledge or information relevant to a return;

22 (ii) compel the production of books, papers, records, or memoranda by the person required to attend;

23 (iii) implement the provisions of 15-1-703 if the department determines that the collection of the tax is
24 or may be jeopardized because of delay;

25 (iv) take testimony on matters material to the determination; and

26 (v) administer oaths or affirmations.

27 (5) Pursuant to rules established by the department, returns may be computer-generated and
28 electronically filed."

29
30 **Section 46.** Section 15-68-505, MCA, is amended to read:

1 **"15-68-505. Credit for taxes paid on worthless accounts -- taxes paid if account collected. (1)**

2 Sales ~~taxes~~ tax paid by a person filing a return under 15-68-502 on sales found to be worthless and actually
3 deducted by the person as a bad debt for federal income tax purposes may be credited on a subsequent
4 payment of the tax.

5 (2) Bad debts may be deducted within 12 months after the month in which the bad debt has been
6 charged off for federal income tax purposes. "Charged off for federal income tax purposes" includes the charging
7 off of unpaid balances due on accounts as uncollectible or declaring as uncollectible such unpaid balance due
8 on accounts in the case of a seller who is not required to file federal income tax returns.

9 (3) If an account is subsequently collected, the sales tax must be paid on the amount collected.

10 (4) A seller may obtain a refund of tax on any amount of bad debt that exceeds the amount of taxable
11 sales within a 12-month period defined by that bad debt.

12 (5) For purposes of computing a bad debt deduction or reporting a payment received on a previously
13 claimed bad debt, any payments made on a debt or account are applied first to interest, service charges, and
14 any other charges and second to the price of the property or service and sales tax on the property or service,
15 proportionally.

16 (6) If filing responsibilities have been assumed by a certified service provider, the certified service
17 provider may claim any bad debt allowance on behalf of the seller.

18 (7) If the books and records of the seller claiming the bad debt allowance support an allocation of the
19 bad debts among several states, the bad debts may be allocated among those states."

20
21 **Section 47.** Section 15-68-510, MCA, is amended to read:

22 **"15-68-510. Vendor allowance. (1)** (a) A person filing a timely return under 15-68-502 may claim a
23 ~~quarterly~~ vendor allowance for each permitted location in the ~~amount of 5%~~ following percentage of the tax
24 determined to be payable to the state, ~~not to exceed \$1,000 a quarter;~~

25 (i) for the first \$1 million in sales, 6%;

26 (ii) for the next \$4 million in sales, 4%;

27 (iii) for the next \$5 million in sales, 3%;

28 (iv) over \$10 million in sales, 0%.

29 ~~(2)~~(b) The allowance may be deducted on the return.

30 ~~(3)~~(c) A person that files a return or payment after the due date for the return or payment may not claim

1 a vendor allowance.

2 (2) In lieu of the vendor allowance provided in subsection (1), certified service providers must receive
3 a monetary allowance determined as provided in the agreement, and the sellers using the certified service
4 providers may not receive a vendor allowance. The vendor allowance must be funded entirely from sales tax
5 proceeds collected by the sellers using the certified service providers.

6 (3) In addition to the vendor allowance provided in subsection (1), a registered seller using a certified
7 automated system must receive a percentage of the tax determined to be payable to the state. The percentage
8 must be determined as provided in the agreement."

9
10 **Section 48.** Section 15-68-801, MCA, is amended to read:

11 **"15-68-801. Administration -- rules. (1)** The department shall:

12 ~~(1)(a)~~ (a) administer and enforce the provisions of this chapter;
13 ~~(2)(b)~~ (b) cause to be prepared and distributed forms and information that may be necessary to administer
14 the provisions of this chapter; and
15 ~~(3)(c)~~ (c) adopt rules that may be necessary or appropriate to administer and enforce the provisions of this
16 chapter.

17 (2) In administering the provisions of this chapter, the department shall, when applicable and not in
18 conflict with Montana law, follow the provisions of the Streamlined Sales and Use Tax Agreement adopted
19 pursuant to [sections 55 through 62]. The department shall report to the revenue and transportation interim
20 committee, provided for in 5-5-227, on:

21 (a) the operation of the Streamlined Sales and Use Tax Agreement and the benefits and costs to the
22 state of its participation; and

23 (b) changes to the Streamlined Sales and Use Tax Agreement that require changes in Montana law for
24 compliance with the agreement."

25
26 **NEW SECTION. Section 49. Local option taxing authority -- specific delegation.** As required by
27 7-1-112, [sections 49 through 54] specifically delegate to the electors of each respective municipality or county
28 the power to authorize their municipality or county to impose a local option sales tax within the corporate
29 boundary of the municipality or within the county.

1 **NEW SECTION. Section 50. Local option sales tax rate -- tie to state sales tax and state**

2 **administration.** (1) The maximum rate of a local option sales tax is 2%. The goods and services subject to
3 taxation are the same goods and services subject to the sales tax and use tax authorized by [sections 49 through
4 54].

5 (2) A local option sales tax must be administered by the department. The department shall collect the
6 local option sales taxes with state sales tax and use tax. Except as provided in [sections 49 through 54], all the
7 provisions on administration and collection, including departmental rulemaking authority, that are applicable to
8 state collection of the sales tax and use tax under [sections 49 through 54] apply to a local option sales tax
9 imposed under [sections 49 through 54]. The department shall charge each local government a fee of 3% of
10 gross collections to be deposited in the general fund to reimburse the state for administering local option sales
11 tax collections. The department shall, after allowances for refunds, remit the balance of the collections under
12 [sections 49 through 54] to the local governments imposing the local option tax.

13
14 **NEW SECTION. Section 51. Local option sales tax -- election required -- procedure -- notice.** (1)

15 A municipality or county may not impose or, except as provided in [section 54], amend or repeal a local option
16 sales tax unless the local option sales tax question has been submitted to the electorate of the municipality or
17 county and approved by a majority of the electors voting on the question.

18 (2) The local option sales tax question may be presented to the electors of:

19 (a) a municipality by a petition of the electors, as provided by 7-1-4130 and 7-5-131 through 7-5-137,
20 or by a resolution of the governing body of the municipality; or

21 (b) a county by a resolution of the board of county commissioners or by a petition of electors as provided
22 in 7-5-131 through 7-5-137.

23 (3) The petition or resolution referring the local option sales tax question must state:

24 (a) the rate of the local option sales tax;

25 (b) the duration of the local option sales tax, which may not exceed 10 years;

26 (c) the date when the local option sales tax becomes effective, which may not be earlier than 35 days
27 after the election; and

28 (d) the purposes that may be funded by the local option sales tax revenue.

29 (4) Upon receipt of an adequate petition, the governing body must have the local option sales tax
30 question placed on the ballot at the next regularly scheduled election.

(5) (a) Before the local option sales tax question is submitted to the electorate of a municipality or county, the governing body of the municipality or the board of county commissioners in the county, as applicable, shall publish notice of the imposition of the local option sales tax in a newspaper that meets the qualifications of subsection (5)(b). The notice must be published twice, with at least 6 days separating publications. The first publication must be no more than 30 days prior to the election and the last no less than 3 days prior to the election.

(b) The newspaper must be:

(i) of general, paid circulation with a second-class mailing permit;

(ii) published at least once a week; and

(iii) published in the county where the election will take place.

(6) The question of the imposition of a local option sales tax may not be placed before the electors more than once in any fiscal year.

NEW SECTION. Section 52. Use of local option sales tax revenue -- bond issue -- pledge. (1)

One-half of the proceeds of a local option sales tax must be used to directly reduce property taxes. One-half of local option sales tax proceeds must be considered property taxes generated by the local government in determining the local government's authority to impose mills under 15-10-420. Unless otherwise restricted by the voter-approved tax authorization provided for in [section 51], a municipality or county may appropriate and expend the balance of the revenue derived from a local option sales tax for any activity, undertaking, or administrative service that the municipality or county is authorized by law to perform, including costs resulting from the imposition of the tax. The municipality or county may award grants of local option sales tax revenue to local governments in the counties adjoining the county imposing the tax or in which the municipality is located.

(2) A municipality or county may issue bonds to provide, install, or construct any of the public facilities, improvements, or undertakings authorized under 7-7-4101, 7-7-4404, and 7-12-4102. Bonds issued under this section must be authorized by a resolution of the governing body, stating the terms, conditions, and covenants of the municipality or county that the governing body considers appropriate. The bonds may be sold at a discount at a public or private sale.

(3) A municipality or county may pledge for repayment of bonds issued under this section the revenue derived from a local option sales tax, special assessments levied for and revenue collected from the facilities, improvements, or undertakings for which the bonds are issued, and any other source of revenue authorized by

the legislature to be imposed or collected by the municipality or county. The bonds do not constitute debt for purposes of any statutory debt limitation if in the resolution authorizing the issuance of the bonds, the municipality or county determines that the local option sales tax revenue, special assessments levied for and revenue from the facilities, improvements, or undertakings, or other sources of revenue, if any, pledged to the payment of the bonds will be sufficient in each year to pay the principal and interest of the bonds when due. Bonds may not be issued pledging proceeds of the local option sales tax for repayment unless the municipality or county that adopted the resolution authorizing issuance of the bonds determines that in any fiscal year, the annual revenue expected to be derived from the local option sales tax will pay the amount of the principal and interest payable on the bonds and any other outstanding bonds payable from the local option sales tax, except any bonds to be refunded upon the issuance of the proposed bonds even if the county in which a municipality is located or other municipalities within a county enact a local option sales tax.

NEW SECTION. Section 53. Distribution of local option sales tax proceeds. (1) (a) Revenue from a local option sales tax must be allocated as follows:

- (i) 75% must be allocated to the entity imposing the tax;
- (ii) 15% must be allocated to the region in which the entity imposing the tax is located; and
- (iii) 10% must be allocated to the subregion in which the entity imposing the tax is located.

(b) Local option sales tax revenue received by region or subregion must be distributed, at least quarterly, to the eligible municipalities and counties and within the region or subregion on a per capita basis. For purposes of distributing the revenue, individuals residing within a municipality are not considered county residents.

(2) A local option sales tax imposed by the county must be levied countywide. Unless otherwise provided by agreements with municipalities, the county shall, at least quarterly, distribute local option sales tax revenue to the municipalities in the following manner:

(a) 50% of the amount of local option sales tax revenue received by the county must be distributed based on population by calculating the ratio of the population of each municipality in the county to the population of the county as derived from the most recent estimates by the U.S. bureau of the census or, if estimates are not available, as derived from the most recent federal decennial census; and

(b) the remaining 50% of the amount retained by the county must be distributed based on the point of origin of the local option sales tax revenue.

(3) (a) For purposes of revenue distribution under this section, a resort community, resort area, or resort

1 area district that has imposed a tax pursuant to Title 7, chapter 6, part 15, must be excluded from the revenue
2 distribution and population calculations.

3 (b) A resort community, resort area, or resort area district that has agreed to not impose its tax and be
4 subject to a county local option tax is entitled to receive county local option sales tax proceeds.

5 (4) For the purposes of this section:

6 (a) region 1 consists of the following subregions:

7 (i) Flathead and Lincoln Counties; and

8 (ii) Granite, Lake, Mineral, Missoula, Ravalli, and Sanders Counties;

9 (b) region 2 consists of the following subregions:

10 (i) Broadwater, Jefferson, Lewis and Clark, and Meagher Counties;

11 (ii) Beaverhead, Deer Lodge, Powell, and Silver Bow Counties; and

12 (iii) Gallatin, Madison, and Park Counties;

13 (c) region 3 consists of the following subregions:

14 (i) Cascade, Chouteau, Fergus, Glacier, Judith Basin, Pondera, Teton, and Toole Counties; and

15 (ii) Blaine, Hill, Liberty, and Phillips Counties;

16 (d) region 4 consists of the following subregions:

17 (i) Big Horn, Carbon, Golden Valley, Musselshell, Petroleum, Rosebud, Stillwater, Sweet Grass,
18 Treasure, Wheatland, and Yellowstone Counties;

19 (ii) Daniels, Garfield, McCone, Roosevelt, Sheridan, and Valley Counties; and

20 (iii) Carter, Custer, Dawson, Fallon, Powder River, Prairie, Richland, and Wibaux Counties.

21
22 **NEW SECTION. Section 54. Local option sales tax -- double taxation prohibited.** (1) Except as
23 provided in subsection (2), a local option sales tax may not be imposed on the same goods or services by more
24 than one local government, including a resort community, resort area, or resort area district imposing a tax under
25 Title 7, chapter 6, part 15.

26 (2) (a) If both a county and a municipality adopt a local option sales tax, the combined rate may not
27 exceed 2%. The second entity to adopt the tax is limited to imposing a tax rate that is equal to or less than the
28 difference between the amount of the existing rate and 2%. If a county adopts a 2% sales tax, a municipality
29 within the county may not impose a local option sales tax. If a county adopts a 2% sales tax, any municipality
30 within the county imposing a sales tax shall repeal the municipal tax without a vote of the electorate.

(b) To coordinate two local option sales taxes imposed within the same area, the rate of the local option sales tax, the duration of the tax, and restrictions on the use of tax revenue may be changed by submitting the question to the electorate of the local government that has an existing local option sales tax. The ballot question may be submitted contingent upon adoption of a local option sales tax by another entity. The governing bodies of the municipality and county may, by agreement, establish common administrative procedures for the administration of the tax.

(3) A county local option sales tax may not be imposed in an existing resort community, resort area, or resort area district. However, an existing resort community, resort area, or resort area district may agree to not impose its tax and be subject to a county local option sales tax.

NEW SECTION. Section 55. Uniform sales and use tax administration. [Sections 55 through 62] may be cited as the "Uniform Sales and Use Tax Administration Act".

NEW SECTION. Section 56. Definitions. As used in [sections 55 through 62], the following definitions apply:

(1) "Agreement" means the Streamlined Sales and Use Tax Agreement.

(2) "Certified automated system" means software certified jointly by the states that are signatories to the agreement to calculate the tax imposed by each jurisdiction on a transaction, to determine the amount of tax to remit to the appropriate state, and to maintain a record of the transaction.

(3) "Certified service provider" means an agent certified jointly by the states that are signatories to the agreement to perform all of the seller's sales tax functions.

(4) "Person" means an individual, trust, estate, fiduciary, partnership, limited liability company, limited liability partnership, corporation, or any other legal entity.

(5) "Sales tax" means the tax levied under 15-68-102.

(6) "Seller" means a person making sales, leases, or rentals of personal property.

(7) "State" means any state of the United States and the District of Columbia.

(8) "Use tax" means the tax levied under 15-68-102.

NEW SECTION. Section 57. Authority to enter agreement. (1) The department is authorized and directed to enter into the agreement with one or more states to simplify and modernize sales tax and use tax

1 administration in order to substantially reduce the burden of tax compliance for all sellers and for all types of
2 commerce. In furtherance of the agreement, the department is authorized to act jointly with other states that are
3 signatories to the agreement to establish standards for certification of certified service providers and a certified
4 automated system and to establish performance standards for multistate sellers through a multistate central
5 registration system.

6 (2) The department is further authorized to take other actions reasonably required to implement the
7 provisions of [sections 55 through 62]. Other actions authorized by this section include but are not limited to the
8 adoption of rules and the joint procurement, with other signatory states, of goods and services in furtherance
9 of the agreement.

10 (3) The department or the department's designee is authorized to represent this state before the other
11 states that are signatories to the agreement.

12
13 **NEW SECTION. Section 58. Relationship to state law.** A provision of the agreement, in whole or in
14 part, does not invalidate or amend any provision of the law of this state. Adoption of the agreement by this state
15 does not amend or modify any law of this state. Implementation of any condition of the agreement within this
16 state, whether adopted before, at, or after this state becomes a signatory to the agreement, must be by the
17 action of this state.

18
19 **NEW SECTION. Section 59. Agreement requirements.** The department may not enter into the
20 agreement unless the agreement requires each state to abide by the following requirements:

21 (1) The agreement must set restrictions to achieve, over time, more uniform rates in Montana through
22 the following:

- 23 (a) limiting the number of state rates;
24 (b) limiting the application of maximums on the amount of state tax that is due on a transaction; and
25 (c) limiting the application of thresholds on the application of state tax.

26 (2) The agreement must establish uniform standards for the following:

- 27 (a) the sourcing of transactions to taxing jurisdictions;
28 (b) the administration of exempt sales; and
29 (c) the allowances that a seller may take for bad debts;
30 (d) sales tax and use tax returns and remittances.

1 (3) The agreement must require states to develop and adopt uniform definitions of sales tax and use
2 tax terms. The definitions must enable a state to preserve its ability to make policy choices not inconsistent with
3 the uniform definitions.

4 (4) The agreement must provide a central, electronic registration system that allows a seller to register
5 to collect and remit sales taxes and use taxes for all signatory states.

6 (5) The agreement must provide that registration with the multistate central registration system and the
7 collection of sales taxes and use taxes in the signatory states will not be used as a factor in determining whether
8 the seller has nexus with a state for any tax.

9 (6) The agreement must provide for reduction of the burdens of complying with local sales taxes and
10 use taxes through the following:

11 (a) restricting variances between the state and local tax bases;

12 (b) requiring states to administer any sales taxes and use taxes levied by local jurisdictions within the
13 state so that sellers collecting and remitting these taxes will not have to register or file returns with, remit funds
14 to, or be subject to independent audits from local taxing jurisdictions;

15 (c) restricting the frequency of changes in the local sales tax and use tax rates and setting effective
16 dates for the application of local jurisdictional boundary changes to local sales taxes and use taxes; and

17 (d) providing notice of changes in local sales tax and use tax rates and of changes in the boundaries
18 of local taxing jurisdictions.

19 (7) The agreement must outline any monetary allowances that are to be provided by the states to sellers
20 or certified service providers.

21 (8) The agreement must require each state to certify compliance with the terms of the agreement prior
22 to becoming a signatory and to maintain compliance, under the laws of the state, with all provisions of the
23 agreement while a signatory.

24 (9) The agreement must require each state to adopt a uniform policy for certified service providers that
25 protects the privacy of consumers and maintains the confidentiality of tax information.

26 (10) The agreement must provide for the appointment of an advisory council of private sector
27 representatives and an advisory council of representatives of states that are not signatory states to consult with
28 in the administration of the agreement.

29
30 NEW SECTION. **Section 60. Cooperating sovereigns.** The agreement is an accord among individual

1 cooperating sovereigns in furtherance of their governmental functions. The agreement provides a mechanism
2 among the signatory states to establish and maintain a cooperative, simplified system for the application and
3 administration of sales taxes and use taxes under the adopted law of each state.

4
5 **NEW SECTION. Section 61. Limited binding and beneficial effect.** (1) The agreement binds and
6 inures only to the benefit of this state and the other signatory states. No person, other than a signatory state, is
7 an intended beneficiary of the agreement. Any benefit to a person other than a state is established by the law
8 of this state and the other signatory states and not by the terms of the agreement.

9 (2) Consistent with subsection (1), no person has any cause of action or defense under the agreement
10 or by virtue of this state's approval of the agreement. A person may not challenge, in any action brought under
11 any provision of law, any action or inaction by any department, agency, or other instrumentality of this state or
12 any political subdivision of this state on the ground that the action or inaction is inconsistent with the agreement.

13 (3) A law of this state or the application of a law of this state may not be declared invalid as to any
14 person or circumstance on the ground that the provision or application is inconsistent with the agreement.

15
16 **NEW SECTION. Section 62. Seller and third-party liability.** (1) (a) A certified service provider is the
17 agent of a seller, with whom the certified service provider has contracted, for the collection and remittance of
18 sales taxes and use taxes. As the seller's agent, the certified service provider is liable for sales tax and use tax
19 due each signatory state on all sales transactions that it processes for the seller, except as set out in this section.

20 (b) A seller that contracts with a certified service provider is not liable to the state for sales tax or use
21 tax due on transactions processed by the certified service provider unless the seller misrepresented the type
22 of items that it sells or committed fraud. In the absence of probable cause to believe that the seller has
23 committed fraud or made a material misrepresentation, the seller is not subject to audit on the transactions
24 processed by the certified service provider.

25 (c) A seller is subject to audit for transactions not processed by the certified service provider. The
26 signatory states acting jointly may perform a system check of the seller and review the seller's procedures to
27 determine if the certified service provider's system is functioning properly and the extent to which the seller's
28 transactions are being processed by the certified service provider.

29 (2) A person that provides a certified automated system is responsible for the proper functioning of that
30 certified automated system and is liable to the state for underpayments of tax attributable to errors in the

1 functioning of the certified automated system. A seller that uses a certified automated system remains
2 responsible and is liable to the state for reporting and remitting tax.

3 (3) A seller that has a proprietary system for determining the amount of tax due on transactions and that
4 has signed an agreement establishing a performance standard for that system is liable for the failure of the
5 system to meet the performance standard.

6
7 **NEW SECTION. Section 63. Occasionally occupied residential property use fee -- purpose.** (1)

8 The purpose for imposing a fee on occasionally occupied residential property by the state of Montana is to
9 compensate the people of Montana for the deleterious effects of the lack of regular participation in the life of the
10 state by the owners of the property, including:

11 (a) a lack of regular participation in economic activity, leading to business closures and loss of regular
12 full-time employment that causes a higher rate of seasonal employment and a lower rate of normal employee
13 benefits;

14 (b) a reduction in the productive use of associated lands and attendant loss of tax base because of the
15 conversion of land from being the primary source of income to a secondary or de minimus source of income;
16 and

17 (c) a lack of regular participation in the civic and volunteer activities in the state, leading to greater
18 demands on state social services.

19 (2) Because the purpose of [sections 63 through 72] is to compensate for a lack of regular participation
20 in the life of the state, including economic activity, the use of a nonrefundable tax credit for payment of the fee
21 is consistent with a showing of participation in state activity, and an exemption from the fee based upon
22 consistent income tax activity is administratively appropriate.

23
24 **NEW SECTION. Section 64. Occasionally occupied residential property use fee -- rate --**
25 **definitions.** (1) In addition to all other taxes that may be imposed on the property, occasionally occupied
26 residential property is subject to an annual state fee equal to 0.5% of the market value of the residence and real
27 property upon which the residence is located.

28 (2) (a) The fee is payable by November 30, 2006, for tax year 2006, and for each succeeding tax year,
29 one-half is payable on November 30 of the tax year and one-half is payable on May 31 of the calendar year
30 following the tax year. Payment must be made to the county treasurer of the county in which the property is

1 located on returns provided by the department. The department may, by rule, provide for the payment of the fee
2 along with property taxes on real property.

3 (b) The county treasurer, in accordance with the provisions of 15-1-504, shall remit the total collections
4 for tax year 2006 to the department and ~~one-half~~ ONE-THIRD of total collections in succeeding tax years. The
5 department shall deposit ~~at~~ ONE-HALF OF THE money remitted to it under [sections 63 through 72] in the state
6 general fund AND THE BALANCE IN AN ACCOUNT IN THE STATE SPECIAL REVENUE FUND TO BE USED BY THE LEGISLATURE
7 TO REVIEW INDIVIDUAL INCOME TAX PROVISIONS FOR SIMPLIFICATION AND TAX RELIEF. The county treasurer shall
8 distribute collections not remitted to the department to each local taxing jurisdiction in the county in the same
9 manner as taxes on property described in 15-6-138 are distributed.

10 (3) (a) The department shall provide a notice of the fee required by this section in the notice of
11 classification and appraisal to owners of residential property. The department may also provide other notices
12 to owners of residential property that may be subject to the fee in this section.

13 (4) The department may provide for the reporting and collection of the fee established by this section
14 in conjunction with similar functions of the property tax.

15 (5) For the purposes of this section the following definitions apply:

16 (a) "Market value" has the meaning provided in 15-8-111(2). Market value determined by the
17 department for property tax purposes must be used to determine the fee established under this section.

18 (b) "Occasionally occupied residential property" means:

19 (i) a residential dwelling and appurtenant outbuildings, including barns, garages, boat sheds, docks, and
20 other improvements intended to be used directly or indirectly by the residents of the residential dwelling and the
21 real property upon which they are located, including adjacent agricultural, forest, or recreational lands;

22 (ii) a residential dwelling that is regularly occupied less than 26 weeks a year by the owners of the
23 property, including family members who are within the first degree of consanguinity or affinity, or, if the owner
24 is an entity as defined in 15-6-193, by a natural person that is a trustee of or controls 50% or more of the entity;

25 (iii) that the owners of the property do not use it for a primary means of livelihood, such as for the
26 production of agricultural products on a commercially viable basis or for the production of rental income at
27 market rates for at least 50 weeks a year.

28
29 **NEW SECTION. Section 65. Occasionally occupied residential property use fee -- tax credit --**
30 **exemption.** (1) There is a credit against taxes owed under chapter 30 or 31 in the amount of the fee paid

pursuant to [section 64]. If the credit is claimed by a small business corporation, as defined in 15-30-1101, or a partnership, the credit must be attributed to shareholders or partners, using the same proportion used to report the corporation's or partnership's income or loss for Montana income tax purposes. The credit allowed under this section may not exceed the taxpayer's income tax liability.

(2) A taxpayer subject to the fee imposed by [section 64] who also qualifies for the credit allowed by subsection (1) may, in lieu of paying the fee and receiving the credit, receive an exemption from payment of the fee.

NEW SECTION. Section 66. Occasionally occupied residential property use fee -- deficiency assessment -- review -- interest -- penalty. (1) When the department determines that the amount of fee due is greater than the amount reported by a return, it shall mail to the property owner a notice, pursuant to 15-1-211, of the additional fee proposed to be assessed. The property owner may seek review of the determination pursuant to 15-1-211.

(2) Penalty and interest must be added to the deficiency assessment as provided in 15-1-216.

NEW SECTION. Section 67. Occasionally occupied residential property use fee -- credit for overpayment -- interest on overpayment. (1) If the department determines that the amount of fee, penalty, or interest due for any year is less than the amount paid, the amount of the overpayment must be credited against any fee, penalty, or interest then due from the property owner and the balance must be refunded to the property owner or its successor through reorganization, merger, or consolidation or to its shareholders upon dissolution.

(2) Except as provided in subsection (3), interest must be allowed on overpayments at the same rate as is charged on the amount of unpaid fee, as provided in 15-1-216, due from the due date of the return or from the date of overpayment, whichever is later, to the date on which the department approves refunding or crediting of the overpayment.

(3) (a) Interest may not accrue during any period in which the processing of a claim for refund is delayed more than 30 days by reason of failure of the property owner to furnish information requested by the department for the purpose of verifying the amount of the overpayment.

(b) Interest is not allowed:

(i) if the overpayment is refunded within 6 months from the date on which the return is due or from the

1 date on which the return is filed, whichever is later; or

2 (ii) if the amount of interest is less than \$1.

3
4 **NEW SECTION. Section 68. Occasionally occupied residential property use fee -- penalty and**
5 **interest for delinquency -- waiver.** (1) Fees due under [sections 63 through 72] become delinquent if not paid
6 within 30 days of the due date. The department shall add penalty and interest to the amount of all delinquent
7 fees as provided in 15-1-216.

8 (2) Penalty and interest, as provided in 15-1-216, may be waived by the department if reasonable cause
9 for the failure to pay the fee is provided to the department.

10
11 **NEW SECTION. Section 69. Occasionally occupied residential property use fee -- estimation of**
12 **fee upon failure to file return -- notice.** (1) If an owner of occasionally occupied residential property fails to pay
13 the fee required by [sections 63 through 72] within the period provided for in [section 64], the department shall
14 estimate the amount of fee due by the owner of occasionally occupied residential property under [sections 63
15 through 72] during the preceding year.

16 (2) The department shall impose penalties and interest as provided in 15-1-216. The department shall
17 mail to the property owner a notice, pursuant to 15-1-211, of the fee, penalty, and interest proposed to be
18 assessed. The property owner may seek review of the determination pursuant to 15-1-211. The notice must
19 contain a statement that if payment is not made, a warrant for distraint may be filed. The department may waive
20 any penalty pursuant to 15-1-206.

21
22 **NEW SECTION. Section 70. Occasionally occupied residential property use fee -- warrant for**
23 **distraint.** If all or part of the fee imposed by [sections 63 through 72] is not paid when due, the department may
24 issue a warrant for distraint as provided in Title 15, chapter 1, part 7. The resulting lien has precedence over any
25 claim, lien, or demand filed after the department files the warrant for distraint.

26
27 **NEW SECTION. Section 71. Occasionally occupied residential property use fee -- statute of**
28 **limitations.** (1) Except as otherwise provided in this section, a deficiency may not be assessed or collected with
29 respect to the year for which a return is filed unless a notice of the additional fee proposed to be assessed is
30 mailed within 5 years from the date on which the return was filed. For the purposes of this section, a return filed

before the last day prescribed for filing is considered filed on the last day. If the property owner, before the expiration of the period prescribed for the assessment of the fee, consents in writing to an assessment after that time, the fee may be assessed at any time prior to the expiration of the period agreed upon.

(2) A refund or credit may not be allowed or paid with respect to the year for which a return is filed after 5 years from the last day prescribed for filing the return or after 1 year from the date of the overpayment, whichever period expires later, unless before the expiration of the period, the property owner files a claim for refund or the department has determined the existence of the overpayment and has approved the refund or credit of the overpayment. If the property owner has agreed in writing under the provisions of subsection (1) to extend the time within which the department may propose an additional assessment, the period within which a claim for refund or credit may be filed or a refund or credit allowed if a claim is not filed is automatically extended.

(3) If a return is required to be filed and the property owner fails to file the return, the fee may be assessed or an action to collect the fee may be brought at any time. If the return is required and the property owner files a fraudulent return, the 5-year period provided for in subsection (1) does not begin until discovery of the fraud by the department.

NEW SECTION. Section 72. Occasionally occupied residential property use fee -- administration -- rules. The department shall:

(1) administer and enforce the provisions of [sections 63 through 72];

(2) cause to be prepared and distributed forms and information that may be necessary to administer the provisions of [sections 63 through 72]; and

(3) adopt rules that may be necessary or appropriate to administer and enforce the provisions of [sections 63 through 72].

~~Section 73. Section 17-3-213, MCA, is amended to read:~~

~~"17-3-213. Allocation of forest reserve funds and other federal funds -- options provided in federal law. (1) The board of county commissioners in each county shall decide among payment options provided in subsections (2) through (4), as provided in Public Law 106-393, to determine how the forest reserve funds and Public Law 106-393 funds apportioned to each county must be distributed by the county treasurer pursuant to this section.~~

~~———— (2) If a board of county commissioners chooses to receive a payment that is 25% of the revenue derived from national forest system lands, as provided in 16 U.S.C. 500, all funds received must be distributed as provided in subsection (5).~~

~~———— (3) (a) Except as provided in subsection (4), if a county elects to receive the county's full payment under Public Law 106-393, a minimum of 80% up to a maximum of 85% of the county's full payment must be designated by the county for distribution as provided in subsection (5).~~

~~———— (b) The balance not distributed pursuant to subsection (3)(a) may be allocated by the county in accordance with Public Law 106-393.~~

~~———— (4) If a county's full payment is less than \$100,000, the county may elect to distribute up to 100% of the payment as provided in subsection (5).~~

~~———— (5) The total amount designated by a county in accordance with subsection (3)(a) or (4) must be distributed as follows:~~

~~———— (a) to the general road fund, 66 2/3% of the amount designated;~~

~~———— (b) to the following countywide school levies, 33 1/3% of the amount designated:~~

~~———— (i) county equalization for elementary schools provided for in 20-9-331;~~

~~———— (ii) county equalization for high schools provided for in 20-9-333;~~

~~———— (iii)(i) the county transportation fund provided for in 20-10-146; and~~

~~———— (iv)(ii) the elementary and high school district retirement fund obligations provided for in 20-9-501.~~

~~———— (6) The apportionment of money to the funds provided for under subsection (5)(b) must be made by the county superintendent based on the proportion that the mill levy of each fund bears to the total number of mills for all the funds. Whenever the total amount of money available for apportionment under subsection (5)(b) is greater than the total requirements of a levy, the excess money and any interest income must be retained in a separate reserve fund, to be reapportioned in the ensuing school fiscal year to the levies designated in subsection (5)(b).~~

~~———— (7) In counties in which special road districts have been created according to law, the board of county commissioners shall distribute a proportionate share of the 66 2/3% distributed under subsection (5)(b) for the general road fund to the special road districts within the county based upon the percentage that the total area of the road district bears to the total area of the entire county."~~

~~———— **Section 74.** Section 20-5-323, MCA, is amended to read:~~

1 ~~—————"20-5-323. Tuition and transportation rates. (1) Except as provided in subsections (2) through (5),~~
2 ~~whenever a child has approval to attend a school outside of the child's district of residence under the provisions~~
3 ~~of 20-5-320 or 20-5-321, the rate of tuition charged for a Montana resident student may not exceed 20% of the~~
4 ~~per-ANB maximum rate established in 20-9-306 for the year of attendance.~~

5 ~~————(2) The tuition for a child with a disability must be determined under rules adopted by the superintendent~~
6 ~~of public instruction for the calculation of tuition for special education pupils.~~

7 ~~————(3) The tuition rate for out-of-district placement pursuant to 20-5-321(1)(d) and (1)(e) for a student~~
8 ~~without disabilities who requires a program with costs that exceed the average district costs must be determined~~
9 ~~as the actual individual costs of providing that program according to the following:~~

10 ~~————(a) the district of attendance and the district, person, or entity responsible for the tuition payments shall~~
11 ~~approve an agreement with the district of attendance for the tuition cost;~~

12 ~~————(b) for a Montana resident student, 80% of the maximum per-ANB rate established in 20-9-306(10)(9),~~
13 ~~received in the year for which the tuition charges are calculated must be subtracted from the per-student~~
14 ~~program costs for a Montana resident student; and~~

15 ~~————(c) the maximum tuition rate paid to a district under this section may not exceed \$2,500 per ANB.~~

16 ~~————(4) When a child attends a public school of another state or province, the amount of daily tuition may~~
17 ~~not be greater than the average annual cost for each student in the child's district of residence. This calculation~~
18 ~~for tuition purposes is determined by totaling all of the expenditures for all of the district budgeted funds for the~~
19 ~~preceding school fiscal year and dividing that amount by the October 1 enrollment in the preceding school fiscal~~
20 ~~year. For the purposes of this subsection, the following do not apply:~~

21 ~~————(a) placement of a child with a disability pursuant to Title 20, chapter 7, part 4;~~

22 ~~————(b) placement made in a state or province with a reciprocal tuition agreement pursuant to 20-5-314;~~

23 ~~————(c) an order issued under Title 40, chapter 4, part 2; or~~

24 ~~————(d) out-of-state placement by a state agency.~~

25 ~~————(5) When a child is placed by a state agency in an out-of-state residential facility, the state agency~~
26 ~~making the placement is responsible for the education costs resulting from the placement.~~

27 ~~————(6) The amount, if any, charged for transportation may not exceed the lesser of the average~~
28 ~~transportation cost for each student in the child's district of residence or 25 cents a mile. The average~~
29 ~~expenditures for the district transportation fund for the preceding school fiscal year must be calculated by~~
30 ~~dividing the transportation fund expenditures by the October 1 enrollment for the preceding fiscal year."~~

1
2 ~~Section 75. Section 20-5-324, MCA, is amended to read:~~

3 ~~"20-5-324. Tuition report and payment provisions -- exemption. (1) At the close of the school term~~
4 ~~of each school fiscal year and before July 15, the trustees of a district shall report to the county superintendent:~~
5 ~~(a) the name and district of residence of each child who is attending a school of the district under a~~
6 ~~mandatory out-of-district attendance agreement approved under the provisions of 20-5-321(1)(b), (1)(d), or~~
7 ~~(1)(e);~~

8 ~~(b) the number of days of enrollment for each child reported under the provisions of subsection (1)(a);~~

9 ~~(c) the annual tuition rate for each child's tuition payment, as determined under the provisions of~~
10 ~~20-5-323, and the tuition cost for each reported child;~~

11 ~~(d) the names, districts of attendance, and amount of tuition to be paid by the district for resident~~
12 ~~students attending public schools out of state; and~~

13 ~~(e) the names, schools of attendance, and amount of tuition to be paid by the district for resident~~
14 ~~students attending day-treatment programs under approved individualized education programs at private,~~
15 ~~nonsectarian schools.~~

16 ~~(2) The county superintendent shall send, as soon as practicable, the reported information to the county~~
17 ~~superintendent of the county in which a reported child resides.~~

18 ~~(3) Before July 30, the county superintendent shall report the information in subsections (1)(d) and (1)(e)~~
19 ~~to the superintendent of public instruction, who shall determine the total per-ANB entitlement for which the district~~
20 ~~would be eligible if the student were enrolled in the resident district. The reimbursement amount is the difference~~
21 ~~between the actual amount paid and the amount calculated in this subsection.~~

22 ~~(4) Notwithstanding the requirements of subsection (5)(a), tuition payment provisions for out-of-district~~
23 ~~placement of students with disabilities must be determined pursuant to Title 20, chapter 7, part 4.~~

24 ~~(5) (a) When a child has approval to attend a school outside the child's district of residence under the~~
25 ~~provisions of 20-5-320 or 20-5-321(1)(a) or (1)(b) or when a child has approval to attend a day-treatment~~
26 ~~program under an approved individualized education program at a private, nonsectarian school located in or~~
27 ~~outside of the child's district of residence, the district of residence shall finance the tuition amount from the district~~
28 ~~tuition fund and any transportation amount from the transportation fund.~~

29 ~~(b) When a child has approval to attend a school outside the child's district of residence under the~~
30 ~~provisions of 20-5-321(1)(c), the parent or guardian of the child shall finance the tuition and transportation~~

1 amount.

2 ~~——— (6) When a child has mandatory approval under the provisions of 20-5-321(1)(d) or (1)(e), the tuition~~
3 ~~and transportation obligation for an elementary school child attending a school outside of the child's district of~~
4 ~~residence must be financed by the basic county tax for elementary BASE funding program for equalization, as~~
5 ~~provided in 20-9-331, for the child's county of residence or for a high school child attending a school outside the~~
6 ~~district of residence by the basic county tax for high school BASE funding program for equalization, as provided~~
7 ~~in 20-9-333, for the child's county of residence.~~

8 ~~——— (7) By December 31 of the school fiscal year, the county superintendent or the trustees shall pay at least~~
9 ~~one-half of any tuition and transportation obligation established under this section out of the money realized to~~
10 ~~date from the appropriate elementary or high school county equalization fund provided for in 20-9-335 or from~~
11 ~~the district tuition or transportation fund. The remaining tuition and transportation obligation must be paid by June~~
12 ~~15 of the school fiscal year. The payments must be made to the county treasurer in each county with a school~~
13 ~~district that is entitled to tuition and transportation. Except as provided in subsection (9), the county treasurer~~
14 ~~shall credit tuition receipts to the general fund of a school district entitled to a tuition payment. The tuition receipts~~
15 ~~must be used in accordance with the provisions of 20-9-141. The county treasurer shall credit transportation~~
16 ~~receipts to the transportation fund of a school district entitled to a transportation payment.~~

17 ~~——— (8) The superintendent of public instruction shall reimburse the district of residence for the per-ANB~~
18 ~~entitlement determined in subsection (3).~~

19 ~~——— (9) (a) Any tuition receipts received under the provisions of 20-5-323(3) for the current school fiscal year~~
20 ~~that exceed the tuition receipts of the prior year may be deposited in the district miscellaneous programs fund~~
21 ~~and must be used for that year in the manner provided for in 20-9-507 to support the costs of the program for~~
22 ~~which the tuition was received.~~

23 ~~——— (b) Any tuition receipts received for the current school fiscal year for a pupil who is a child with a~~
24 ~~disability that exceed the tuition amount received for a pupil without disabilities may be deposited in the district~~
25 ~~miscellaneous programs fund and must be used for that year in the manner provided for in 20-9-507 to support~~
26 ~~the costs of the program for which the tuition was received.~~

27 ~~——— (c) Any other tuition receipts received for the current school fiscal year that exceed the tuition receipts~~
28 ~~of the prior year may be deposited in the district miscellaneous programs fund and may be used for that year~~
29 ~~in the manner provided for in that fund. For the ensuing school fiscal year, the receipts must be credited to the~~
30 ~~district general fund budget.~~

1 ~~———— (10) The provisions of this section do not apply to out-of-state placements made by a state agency~~
2 ~~pursuant to 20-7-422."~~

3
4 ~~————~~ **Section 76.** Section 20-6-702, MCA, is amended to read:

5 ~~————~~ **"20-6-702. Funding for K-12 school districts.** (1) Notwithstanding the provisions of subsections (2)
6 ~~through (6), a K-12 school district formed under the provisions of 20-6-701 is subject to the provisions of law for~~
7 ~~high school districts.~~

8 ~~———— (2) The number of elected trustees of the K-12 school district must be based on the classification of the~~
9 ~~attached elementary district under the provisions of 20-3-341 and 20-3-351.~~

10 ~~———— (3) Calculations for the following must be made separately for the elementary school program and the~~
11 ~~high school program of a K-12 school district:~~

12 ~~———— (a) the calculation of ANB for purposes of determining the total per-ANB entitlements must be in~~
13 ~~accordance with the provisions of 20-9-311;~~

14 ~~———— (b) the basic county tax for elementary equalization and revenue for the elementary BASE funding~~
15 ~~program for the district must be determined in accordance with the provisions of 20-9-331, and the basic county~~
16 ~~tax for high school equalization and revenue for the high school BASE funding program for the district must be~~
17 ~~determined in accordance with the provisions of 20-9-333; and~~

18 ~~———— (c) the guaranteed tax base aid for BASE funding program purposes for a K-12 school district must be~~
19 ~~calculated separately, using each district's guaranteed tax base ratio, as defined in 20-9-366. The BASE budget~~
20 ~~levy to be levied for the K-12 school district must be prorated based on the ratio of the BASE funding program~~
21 ~~amounts for elementary school programs to the BASE funding program amounts for high school programs.~~

22 ~~———— (4) The retirement obligation and eligibility for retirement guaranteed tax base aid for a K-12 school~~
23 ~~district must be calculated and funded as a high school district retirement obligation under the provisions of~~
24 ~~20-9-501.~~

25 ~~———— (5) For the purposes of budgeting for a K-12 school district, the trustees shall adopt a single fund for~~
26 ~~any of the budgeted or nonbudgeted funds described in 20-9-201 for the costs of operating all grades and~~
27 ~~programs of the district.~~

28 ~~———— (6) Tuition for attendance in the K-12 school district must be determined separately for high school~~
29 ~~pupils and for elementary pupils under the provisions of 20-5-320 through 20-5-324, except that the actual~~
30 ~~expenditures used for calculations in 20-5-323 must be based on an amount prorated between the elementary~~

1 and high school programs in the appropriate funds of each district in the year prior to the attachment of the
2 districts."

3
4 ~~Section 77.~~ Section 20-7-102, MCA, is amended to read:

5 ~~"20-7-102. Accreditation of schools.~~ (1) The conditions under which each elementary school, each
6 middle school, each junior high school, 7th and 8th grades funded at high school rates, and each high school
7 operates must be reviewed by the superintendent of public instruction to determine compliance with the
8 standards of accreditation. The accreditation status of every school must then be established by the board of
9 public education upon the recommendation of the superintendent of public instruction. Notification of the
10 accreditation status for the applicable school year or years must be given to each district by the superintendent
11 of public instruction.

12 ~~(2) A school may be accredited for a period consisting of 1, 2, 3, 4, or 5 school years, except that~~
13 ~~multiyear accreditation may only be granted to schools that are in compliance with 20-4-101.~~

14 ~~(3) A nonpublic school may, through its governing body, request that the board of public education~~
15 ~~accredit the school. Nonpublic schools may be accredited in the same manner as provided in subsection (1).~~

16 ~~(4) As used in this section, "7th and 8th grades funded at high school rates" means an elementary~~
17 ~~school district or K-12 district elementary program whose 7th and 8th grades are funded as provided in~~
18 ~~20-9-306(10)(c)(i)(9)(c)(i)."~~

19
20 ~~Section 78.~~ Section 20-9-212, MCA, is amended to read:

21 ~~"20-9-212. Duties of county treasurer.~~ The county treasurer of each county:

22 ~~(1) must receive and shall hold all school money subject to apportionment and keep a separate~~
23 ~~accounting of its apportionment to the several districts that are entitled to a portion of the money according to~~
24 ~~the apportionments ordered by the county superintendent or by the superintendent of public instruction. A~~
25 ~~separate accounting must be maintained for each county fund supported by a countywide levy for a specific,~~
26 ~~authorized purpose, including:~~

27 ~~(a) the basic county tax revenue sources for elementary equalization;~~

28 ~~(b) the basic county tax revenue sources for high school equalization;~~

29 ~~(c) the county tax in support of the transportation schedules;~~

30 ~~(d) the county tax in support of the elementary and high school district retirement obligations; and~~

~~———— (e) any other county tax for schools, including the community colleges, that may be authorized by law and levied by the county commissioners;~~

~~———— (2) whenever requested, shall notify the county superintendent and the superintendent of public instruction of the amount of county school money on deposit in each of the funds enumerated in subsection (1) and the amount of any other school money subject to apportionment and apportion the county and other school money to the districts in accordance with the apportionment ordered by the county superintendent or the superintendent of public instruction;~~

~~———— (3) shall keep a separate accounting of the receipts, expenditures, and cash balances for each fund;~~

~~———— (4) except as otherwise limited by law, shall pay all warrants properly drawn on the county or district school money;~~

~~———— (5) must receive all revenue collected by and for each district and shall deposit these receipts in the fund designated by law or by the district if a fund is not designated by law. Interest and penalties on delinquent school taxes must be credited to the same fund and district for which the original taxes were levied.~~

~~———— (6) shall send all revenue received for a joint district, part of which is situated in the county, to the county treasurer designated as the custodian of the revenue, no later than December 15 of each year and every 3 months after that date until the end of the school fiscal year;~~

~~———— (7) at the direction of the trustees of a district, shall assist the district in the issuance and sale of tax and revenue anticipation notes as provided in Title 7, chapter 6, part 11;~~

~~———— (8) shall register district warrants drawn on a budgeted fund in accordance with 7-6-2604 when there is insufficient money available in all funds of the district to make payment of the warrant. Redemption of registered warrants must be made in accordance with 7-6-2116, 7-6-2605, and 7-6-2606.~~

~~———— (9) when directed by the trustees of a district, shall invest the money of the district within 3 working days of the direction;~~

~~———— (10) each month, shall give to the trustees of each district an itemized report for each fund maintained by the district, showing the paid warrants, registered warrants, interest distribution, amounts and types of revenue received, and the cash balance;~~

~~———— (11) shall remit promptly to the department of revenue receipts for the county tax for a vocational-technical program within a unit of the university system when levied by the board of county commissioners under the provisions of 20-25-439;~~

~~———— (12) shall invest the money received from the basic county taxes for elementary and high school~~

equalization, the county levy in support of the elementary and high school district retirement obligations, and the county levy in support of the transportation schedules within 3 working days of receipt. The money must be invested until the working day before it is required to be distributed to school districts within the county or remitted to the state. Permissible investments are specified in 20-9-213(4). All investment income must be deposited, and credited proportionately, in the funds established to account for the taxes received for the purposes specified in subsections (1)(a) through (1)(d).

_____ (13) shall remit on a monthly basis to the department of revenue, as provided in 15-1-504, all county equalization revenue received under the provisions of 20-9-331 and 20-9-333, including all interest earned and excluding any amount required for tuition paid under the provisions of 20-5-324(6) or (7), in repayment of the state advance for county equalization prescribed in 20-9-347. Any funds in excess of a state advance must be used as required in 20-9-331(1)(b) and 20-9-333(1)(b)."

_____ **Section 79.** Section 20-9-306, MCA, is amended to read:

_____ **"20-9-306. Definitions.** As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

_____ (1) "BASE" means base amount for school equity.

_____ (2) "BASE aid" means:

_____ (a) direct state aid for 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district; and

_____ (b) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic entitlement, up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and 40% of the special education allowable cost payment.

_____ (3) "BASE budget" means the minimum general fund budget of a district, which includes 80% of the basic entitlement, 80% of the total per-ANB entitlement, and up to 140% of the special education allowable cost payment.

_____ (4) "BASE budget levy" means the district levy in support of the BASE budget of a district, which may be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366 through 20-9-369.

_____ (5)(4) "BASE funding program" means the state program for the equitable distribution of the state's share of the cost of Montana's basic system of public elementary schools and high schools, through county

~~equalization aid collected from the sales tax and use tax under 15-68-820 and distributed as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in 20-9-343, in support of the BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.~~

~~(6)(5) "Basic entitlement" means:~~

~~(a) \$220,646 for each high school district;~~

~~(b) \$19,859 for each elementary school district or K-12 district elementary program without an approved and accredited junior high school or middle school; and~~

~~(c) the prorated entitlement for each elementary school district or K-12 district elementary program with an approved and accredited junior high school or middle school, calculated as follows:~~

~~(i) \$19,859 times the ratio of the ANB for kindergarten through grade 6 to the total ANB of kindergarten through grade 8; plus~~

~~(ii) \$220,646 times the ratio of the ANB for grades 7 and 8 to the total ANB of kindergarten through grade 8.~~

~~(7)(6) "Direct state aid" means 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district and funded with state and county equalization aid.~~

~~(8)(7) "Maximum general fund budget" means a district's general fund budget amount calculated from the basic entitlement for the district, the total per-ANB entitlement for the district, and the greater of:~~

~~(a) 175% of special education allowable cost payments; or~~

~~(b) the ratio, expressed as a percentage, of the district's special education allowable cost expenditures to the district's special education allowable cost payment for the fiscal year that is 2 years previous, with a maximum allowable ratio of 200%.~~

~~(9)(8) "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted that is above the BASE budget and below the maximum general fund budget for a district.~~

~~(10)(9) "Total per-ANB entitlement" means the district entitlement resulting from the following calculations:~~

~~(a) for a high school district or a K-12 district high school program, a maximum rate of \$5,371 for the first ANB is decreased at the rate of 50 cents per ANB for each additional ANB of the district up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB;~~

~~(b) for an elementary school district or a K-12 district elementary program without an approved and accredited junior high school or middle school, a maximum rate of \$4,031 for the first ANB is decreased at the~~

rate of 20 cents per ANB for each additional ANB of the district up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

~~———— (c) for an elementary school district or a K-12 district elementary program with an approved and accredited junior high school or middle school, the sum of:~~

~~———— (i) a maximum rate of \$4,031 for the first ANB for kindergarten through grade 6 is decreased at the rate of 20 cents per ANB for each additional ANB up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and~~

~~———— (ii) a maximum rate of \$5,371 for the first ANB for grades 7 and 8 is decreased at the rate of 50 cents per ANB for each additional ANB for grades 7 and 8 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB."~~

~~————~~ **Section 80.** Section 20-9-307, MCA, is amended to read:

~~———— "20-9-307. BASE funding program -- district general fund budget -- funding sources. (1) A basic system of free quality public elementary schools and high schools must be established and maintained throughout the state of Montana to provide equality of educational opportunity to all school-age children:~~

~~———— (2) The state shall in an equitable manner fund and distribute to the school districts the state's share of the cost of the basic school system through BASE aid to support the BASE funding program in the manner established in this title:~~

~~———— (3) The budgetary vehicle for achieving the financing system established in subsection (2) is the general fund budget of the school district. The purpose of the district general fund budget is to finance those instructional, administrative, facility maintenance, and other operational costs of a district not financed by other funds established for special purposes in this title:~~

~~———— (4) The BASE funding program for the districts in the state is financed by a combination of the following sources:~~

~~———— (a) county equalization money from collections of the sales and use tax, as provided in 20-9-331 and 20-9-333;~~

~~———— (b) state equalization aid, as provided in 20-9-343, including guaranteed tax base aid for eligible districts as provided in 20-9-366 through 20-9-369;~~

~~———— (c) appropriations for special education;~~

~~———— (d) a district levy, as provided in 20-9-303, for support of a school not approved as an isolated school~~

under the provisions of 20-9-302; and

~~_____ (e) district levies or other revenue, as provided by 20-9-308 and 20-9-353."~~

~~_____ **Section 81.** Section 20-9-308, MCA, is amended to read:~~

~~_____ **"20-9-308. BASE budgets and maximum general fund budgets.** (1) The trustees of a district shall adopt a general fund budget that is at least equal to the BASE budget established for the district and, except as provided in subsection (3), does not exceed the maximum general fund budget established for the district.~~

~~_____ (2) Whenever the trustees of a district adopt a general fund budget that exceeds the BASE budget for the district but does not exceed the maximum general fund budget for the district, the trustees shall submit a proposition to the electors of the district, as provided in 20-9-353.~~

~~_____ (3) (a) (i) Except as provided in subsection (3)(a)(ii), the trustees of a school district whose previous year's general fund budget exceeds the current year's maximum general fund budget amount may adopt a general fund budget up to the maximum general fund budget amount or the previous year's general fund budget, whichever is greater. A school district may adopt a budget under the criteria of this subsection (3)(a)(i) for a maximum of 5 consecutive years, but the trustees shall adopt a plan to reach the maximum general fund budget by no later than the end of the 5-year period. A school district whose adopted general fund budget for the previous year exceeds the maximum general fund budget for the current year and whose ANB for the previous year exceeds the ANB for the current year by 30% or more shall reduce its adopted budget by:~~

~~_____ (A) in the first year, 20% of the range between the district's adopted general fund budget for the previous school fiscal year and the maximum general fund budget for the current school fiscal year;~~

~~_____ (B) in the second year, 25% of the range between the district's adopted general fund budget for the previous school fiscal year and the maximum general fund budget for the current school fiscal year;~~

~~_____ (C) in the third year, 33.3% of the range between the district's adopted general fund budget for the previous school fiscal year and the maximum general fund budget for the current school fiscal year;~~

~~_____ (D) in the fourth year, 50% of the range between the district's adopted general fund budget for the previous school fiscal year and the maximum general fund budget for the current school fiscal year; and~~

~~_____ (E) in the fifth year, the remainder of the range between the district's adopted general fund budget for the previous school fiscal year and the maximum general fund budget for the current school fiscal year.~~

~~_____ (ii) The trustees of a district whose general fund budget was above the maximum general fund budget established by Chapter 38, Special Laws of November 1993, and whose general fund budget has continued to~~

1 ~~exceed the district's maximum general fund budget in each school fiscal year after school fiscal year 1993 may~~
 2 ~~continue to adopt a general fund budget that exceeds the maximum general fund budget. However, the budget~~
 3 ~~adopted for the current year may not exceed the lesser of:~~

4 ~~—— (A) the adopted budget for the previous year; or~~

5 ~~—— (B) the district's maximum general fund budget for the current year plus the over maximum budget~~
 6 ~~amount adopted for the previous year.~~

7 ~~—— (b) The trustees of the district shall submit a proposition to raise any general fund budget amount that~~
 8 ~~is in excess of the maximum general fund budget for the district to the electors who are qualified under~~
 9 ~~20-20-301 to vote on the proposition, as provided in 20-9-353.~~

10 ~~—— (4) The BASE budget for the district must be financed by the following sources of revenue:~~

11 ~~—— (a) state equalization aid, as provided in 20-9-343, including any guaranteed tax base aid for which the~~
 12 ~~district may be eligible, as provided in 20-9-366 through 20-9-369;~~

13 ~~—— (b) county sales tax and use tax equalization aid, as provided in 20-9-331 and 20-9-333;~~

14 ~~—— (c) a district levy for support of a school not approved as an isolated school under the provisions of~~
 15 ~~20-9-302;~~

16 ~~—— (d) payments in support of special education programs under the provisions of 20-9-321; and~~

17 ~~—— (e) nonlevy revenue, as provided in 20-9-141; and~~

18 ~~—— (f) a BASE budget levy on the taxable value of all property within the district.~~

19 ~~—— (5) The over-BASE budget amount of a district must be financed by a levy on the taxable value of all~~
 20 ~~property within the district or other revenue available to the district, as provided in 20-9-141."~~

22 **Section 73.** Section 20-9-331, MCA, is amended to read:

23 **"20-9-331. Basic county tax Sales tax funding for elementary equalization and other revenue**
 24 **REVENUE for county equalization of elementary BASE funding program. (1) (A)** Subject to 15-10-420, the
 25 county commissioners of each county shall levy an annual basic county tax of 33 mills on the dollar of the
 26 taxable value of all taxable property within the county, except for property subject to a tax or fee under 23-2-517,
 27 23-2-803, 61-3-521, 61-3-527, 61-3-529, 61-3-537, 61-3-560 through 61-3-562, 61-3-570, and 67-3-204; There
 28 must be appropriated from the special revenue account established for the collection of sales tax and use tax
 29 in 15-68-820 sufficient funds for FOR the purposes of elementary equalization and state BASE funding program
 30 support; The revenue collected from this levy funds THE REVENUE UNDER THIS SECTION must be apportioned to

1 the support of the elementary BASE funding programs of the school districts in the county, ~~and to the state~~
2 ~~general fund in the following manner:~~

3 ~~—— (a) In order to determine the amount of revenue raised by this levy that is retained by the county, the~~
4 ~~sum of the estimated revenue identified in subsection (2) must be subtracted from the total of the BASE funding~~
5 ~~programs of all elementary districts of the county.~~

6 ~~—— (b) If the basic levy and other revenue prescribed by this section produce more revenue than is required~~
7 ~~to repay a state advance for county equalization, the county treasurer shall remit the surplus funds to the~~
8 ~~department of revenue, as provided in 15-1-504, for deposit to the state general fund immediately upon~~
9 ~~occurrence of a surplus balance and each subsequent month, with any final remittance due no later than June~~
10 ~~20 of the fiscal year for which the levy has been set.~~

11 (B) IF OTHER REVENUE PRESCRIBED BY THIS SECTION PRODUCES MORE REVENUE THAN IS REQUIRED TO REPAY
12 A STATE ADVANCE, IF ANY, FOR COUNTY EQUALIZATION, THE COUNTY TREASURER SHALL REMIT THE SURPLUS FUNDS TO
13 THE DEPARTMENT OF REVENUE, AS PROVIDED IN 15-1-504, FOR DEPOSIT TO THE STATE GENERAL FUND IMMEDIATELY
14 UPON OCCURRENCE OF A SURPLUS BALANCE AND EACH SUBSEQUENT MONTH, WITH ANY FINAL REMITTANCE DUE NO LATER
15 THAN JUNE 20 OF THE FISCAL YEAR FOR WHICH THE STATE ADVANCE WAS RECEIVED.

16 (2) The revenue ~~realized from the county's portion of the levy prescribed by this section and the revenue~~
17 from the following sources must be used for the equalization of the elementary BASE funding program of the
18 county as prescribed in 20-9-335, and a separate accounting must be kept of the revenue by the county
19 treasurer in accordance with 20-9-212(1):

20 (a) the portion of the federal Taylor Grazing Act funds designated for the elementary county equalization
21 fund under the provisions of 17-3-222;

22 (b) the portion of the federal flood control act funds distributed to a county and designated for
23 expenditure for the benefit of the county common schools under the provisions of 17-3-232;

24 (c) all money paid into the county treasury as a result of fines for violations of law, except money paid
25 to a justice's court, and the use of which is not otherwise specified by law;

26 (d) any money remaining at the end of the immediately preceding school fiscal year in the county
27 treasurer's accounts for the various sources of revenue established or referred to in this section;

28 (e) any federal or state money distributed to the county as payment in lieu of property taxation, including
29 federal forest reserve funds allocated under the provisions of 17-3-213; AND

30 ~~(f) gross proceeds taxes from coal under 15-23-703; and~~

1 ~~_____ (g) oil and natural gas production taxes.~~

2 (F) ANY MONEY APPROPRIATED BY THE LEGISLATURE THAT IS DESIGNATED AS COUNTY ELEMENTARY
3 EQUALIZATION AID."

4
5 **Section 74.** Section 20-9-333, MCA, is amended to read:

6 **"20-9-333. Basic county tax ~~Sales tax funding for high school equalization and other revenue~~**
7 **REVENUE for county equalization of high school BASE funding program. (1) (A) Subject to 15-10-420, the**
8 **county commissioners of each county shall levy an annual basic county tax of 22 mills on the dollar of the**
9 **taxable value of all taxable property within the county, except for property subject to a tax or fee under 23-2-517,**
10 **23-2-803, 61-3-521, 61-3-527, 61-3-529, 61-3-537, 61-3-560 through 61-3-562, 61-3-570, and 67-3-204; There**
11 **must be appropriated from the special revenue account established for the collection of sales tax and use tax**
12 **in 15-68-820 sufficient funds for FOR the purposes of high school equalization and state BASE funding program**
13 **support. The revenue collected from this levy funds THE REVENUE COLLECTED UNDER THIS SECTION must be**
14 **apportioned to the support of the BASE funding programs of high school districts in the county, and to the state**
15 **general fund in the following manner:**

16 ~~_____ (a) In order to determine the amount of revenue raised by this levy that is retained by the county, the~~
17 ~~sum of the estimated revenue identified in subsection (2) must be subtracted from the sum of the county's high~~
18 ~~school tuition obligation and the total of the BASE funding programs of all high school districts of the county.~~

19 ~~_____ (b) If the basic levy and other revenue prescribed by this section produce more revenue than is required~~
20 ~~to repay a state advance for county equalization, the county treasurer shall remit the surplus funds to the~~
21 ~~department of revenue, as provided in 15-1-504, for deposit to the state general fund immediately upon~~
22 ~~occurrence of a surplus balance and each subsequent month, with any final remittance due no later than June~~
23 ~~20 of the fiscal year for which the levy has been set.~~

24 (B) IF REVENUE PRESCRIBED BY THIS SECTION PRODUCES MORE REVENUE THAN IS REQUIRED TO REPAY A STATE
25 ADVANCE, IF ANY, FOR COUNTY EQUALIZATION, THE COUNTY TREASURER SHALL REMIT THE SURPLUS FUNDS TO THE
26 DEPARTMENT OF REVENUE, AS PROVIDED IN 15-1-504, FOR DEPOSIT TO THE STATE GENERAL FUND IMMEDIATELY UPON
27 OCCURRENCE OF A SURPLUS BALANCE AND EACH SUBSEQUENT MONTH, WITH ANY FINAL REMITTANCE DUE NO LATER THAN
28 JUNE 20 OF THE FISCAL YEAR FOR WHICH THE STATE ADVANCE WAS MADE.

29 (2) The revenue ~~realized from the county's portion of the levy prescribed in this section and the revenue~~
30 ~~from the following sources must be used for the equalization of the high school BASE funding program of the~~

county as prescribed in 20-9-335, and a separate accounting must be kept of the revenue by the county treasurer in accordance with 20-9-212(1):

(a) any money remaining at the end of the immediately preceding school fiscal year in the county treasurer's accounts for the various sources of revenue established in this section;

(b) any federal or state money distributed to the county as payment in lieu of property taxation, including federal forest reserve funds allocated under the provisions of 17-3-213; AND

~~(c) gross proceeds taxes from coal under 15-23-703; and~~

~~——— (d) oil and natural gas production taxes.~~

(C) ANY MONEY APPROPRIATED BY THE LEGISLATURE THAT IS DESIGNATED AS COUNTY HIGH SCHOOL EQUALIZATION AID."

~~——— **Section 84.** Section 20-9-347, MCA, is amended to read:~~

~~——— **"20-9-347. Distribution of BASE aid and special education allowable cost payments in support of BASE funding program -- exceptions.** (1) The superintendent of public instruction shall:~~

~~——— (a) supply the county treasurer and the county superintendent with a monthly report of the payment of BASE aid in support of the BASE funding program of each district of the county;~~

~~——— (b) in the manner described in 20-9-344, provide for a state advance to each county in an amount that is no less than the amount anticipated to be raised for available through the elementary and high school county equalization funds as provided in 20-9-331 and 20-9-333; and~~

~~——— (c) adopt rules to implement the provisions of subsection (1)(b).~~

~~——— (2) (a) The superintendent of public instruction is authorized to adjust the schedule prescribed in 20-9-344 for distribution of the BASE aid payments if the distribution will cause a district to register warrants under the provisions of 20-9-212(8).~~

~~——— (b) To qualify for an adjustment in the payment schedule, a district shall demonstrate to the superintendent of public instruction, in the manner required by the office, that the payment schedule prescribed in 20-9-344 will result in insufficient money available in all funds of the district to make payment of the district's warrants. The county treasurer shall confirm the anticipated deficit. This section may not be construed to authorize the superintendent of public instruction to exceed a district's annual payment for BASE aid.~~

~~——— (3) The superintendent of public instruction shall:~~

~~——— (a) distribute special education allowable cost payments to districts; and~~

1 ~~_____ (b) supply the county treasurer and the county superintendent of schools with a report of payments for~~
2 ~~special education allowable costs to districts of the county."~~

3
4 ~~_____ **Section 85.** Section 20-9-361, MCA, is amended to read:~~

5 ~~_____ **"20-9-361. County equalization revenue funds.** Revenue Funds received in support of county~~
6 ~~equalization under the provisions of 20-9-331 and 20-9-333 is to must be used for county equalization aid for~~
7 ~~the public schools, as provided by law, and must be accounted for in accordance with generally accepted~~
8 ~~accounting principles."~~

9
10 **Section 75.** Section 90-6-304, MCA, is amended to read:

11 **"90-6-304. Accounts established.** (1) There is within the state agency fund type a hard-rock mining
12 impact account. Money is payable into this account from payments made by a mining developer in compliance
13 with the written guarantee from the developer to meet the increased costs of public services and facilities as
14 specified in the impact plan provided for in 90-6-307. The state treasurer shall draw warrants from this account
15 upon order of the board.

16 (2) There is within the state special revenue fund a hard-rock mining impact trust account. Within this
17 trust account, there is established a reserve account not to exceed \$100,000.

18 (a) Money within the hard-rock mining impact trust account may be used:

19 (i) for the administrative and operating expenses of the board, as provided by 90-6-303(4);

20 (ii) to establish and maintain the reserve account; and

21 (iii) for distribution to the counties of origin, as provided by 90-6-331 and this section.

22 (b) Money within the hard-rock mining impact trust reserve account may be used for the administrative
23 and operating expenses of the board if:

24 (i) the revenue provided under 15-37-117(1)(b) is less than the amount appropriated for the
25 administrative and operating expenses of the board; or

26 (ii) the use of the reserve account revenue is necessary to allow the board to meet its quasi-judicial
27 responsibilities under 90-6-307, 90-6-311, or 90-6-403(3)(2).

28 (3) Money is payable into the hard-rock mining impact trust account under the provisions of 15-37-117.
29 After first deducting the administrative and operating expenses of the board, as provided in 90-6-303, and then
30 establishing and maintaining the reserve account in the amount of \$100,000, as provided in subsection (2) of

1 this section, the remaining money must be segregated within the account by county of origin. The state treasurer
2 shall draw warrants from this account upon order of the board."

3
4 **Section 76.** Section 90-6-305, MCA, is amended to read:

5 **"90-6-305. Hard-rock mining impact board -- general powers.** (1) The board may:

6 (a) retain professional staff, including its administrative staff, and retain consultants and advisers,
7 notwithstanding the provisions of 2-15-121;

8 (b) adopt rules governing its proceedings, determinations, and administration of this part;

9 (c) make payments to local government units from money paid to the hard-rock mining impact account
10 as provided in 90-6-307;

11 (d) make determinations as provided in 90-6-307, 90-6-311, and 90-6-403~~(3)~~(2); and

12 (e) accept grants and other funds to be used in carrying out this part.

13 (2) The provisions of the Montana Administrative Procedure Act apply to the proceedings and
14 determinations of the board."

15
16 **Section 77.** Section 90-6-309, MCA, is amended to read:

17 **"90-6-309. Tax prepayment -- large-scale mineral development.** (1) After permission to commence
18 operation is granted by the appropriate governmental agency, and upon request of the governing body of a
19 county in which a facility is to be located, a person intending to construct or locate a large-scale mineral
20 development in this state shall prepay property taxes as specified in the impact plan. ~~This prepayment shall~~
21 ~~exclude the 6-mill university levy established under 20-25-423 and may exclude the mandatory county levies~~
22 ~~for the school BASE funding program established in 20-9-331 and 20-9-333.~~

23 (2) The person who is to prepay under this section is not obligated to prepay the entire amount
24 established in subsection (1) at one time. Upon request of the governing body of an affected local government
25 unit, the person shall prepay the amount shown to be needed from time to time as determined by the board.

26 (3) The person who is to prepay shall guarantee to the hard-rock mining impact board, through an
27 appropriate financial institution, as may be required by the board, that property tax prepayments will be paid as
28 needed for expenditures created by the impacts of the large-scale mineral development.

29 (4) When the mineral development facilities are completed and assessed by the department of revenue,
30 they are subject during the first 3 years and thereafter to taxation as all other property similarly situated, except

1 that in each year after the start of production, the local government unit that received a property tax prepayment
2 shall provide for repayment of prepaid property taxes in accordance with subsection (5).

3 (5) A local government unit that received all or a portion of the property tax prepayment under this
4 section shall provide for tax crediting as specified in the impact plan. The tax credit allowed in any year may not,
5 however, exceed the tax obligation of the developer for that year, and the time period for tax crediting is limited
6 to the productive life of the mining operation."

7
8 **Section 78.** Section 90-6-403, MCA, is amended to read:

9 **"90-6-403. Jurisdictional revenue disparity -- conditioned exemption and reallocation of certain**
10 **taxable valuation.** (1) When an impact plan for a large-scale mineral development approved pursuant to
11 90-6-307 identifies a jurisdictional revenue disparity, the board shall promptly notify the developer, all affected
12 local government units, and the department of revenue of the disparity. Except as provided in 90-6-404 and this
13 section, the increase in taxable valuation of the mineral development that occurs after the issuance and
14 validation of a permit under 82-4-335 is not subject to the usual application of county and school district property
15 tax mill levies. This increase in taxable valuation must be allocated to local government units as provided in
16 90-6-404. The increase in taxable valuation allocated as provided in 90-6-404 is subject to 15-10-420 and the
17 application of property tax mill levies in the local government unit to which it is allocated. The increase in taxable
18 valuation allocated to the local government unit is considered newly taxable property in the recipient local
19 government unit as provided in 15-10-420.

20 ~~(2) Subject to 15-10-420, the total taxable valuation of a large-scale mineral development remains~~
21 ~~subject to the statewide mill levies and basic county levies for elementary and high school BASE funding~~
22 ~~programs as provided in 20-9-331 and 20-9-333.~~

23 ~~(3)(2)~~ The provisions of subsection (1) remain in effect until the large-scale mineral development ceases
24 operations or until the existence of the jurisdictional revenue disparity ceases, as determined by the board."

25
26 **Section 79.** Section 27, Chapter 285, Laws of 1999, is amended to read:

27 **"Section 27. Repealer.** (1) Sections 15-6-136, 15-24-901, 15-24-920, 15-24-926, 15-24-927, and
28 15-24-931, MCA, are repealed.

29 ~~(2) Section 15-6-138, MCA, is repealed."~~
30

Section 80. Section 31, Chapter 285, Laws of 1999, is amended to read:

"Section 31. Effective dates. (1) [Sections 1, 11, 12, 15, 22, 26, 28 through 30, and 32 and this section] are effective on passage and approval.

(2) [Sections 3 through 9 and 23] are effective July 1, 2000.

(3) [Sections 2, 10, 13, 14, 16 through 21, 24, 25, and 27(1)] are effective January 1, 2003.

~~(4) [Sections 13(1)(aa) through (1)(ll) and 27(2)] are effective if the tax rate in [section 12], amending 15-6-138, reaches zero."~~

Section 81. Section 5, Chapter 577, Laws of 2003, is amended to read:

"Section 5. Section 31, Chapter 285, Laws of 1999, is amended to read:

"Section 31. Effective dates. (1) [Sections 1, 11, 12, 15, 22, 26, 28 through 30, and 32 and this section] are effective on passage and approval.

(2) [Sections 3 through 9 and 23] are effective July 1, 2000.

(3) [Sections 2, 10, 13, 14, 16 through 21, 24, 25, and 27(1)] are effective January 1, 2003.

~~(4) [Sections 13(1)(aa) through (1)(ll) and 27(2)] are [Section 27(2)] is effective if the tax rate in [section 12], amending 15-6-138, reaches zero."~~

NEW SECTION. Section 82. Repealer. (1) Sections 15-10-107, 20-9-360, and 20-25-423, MCA, are repealed.

(2) If Senate Bill No. [LC2301] is not approved by the qualified electors at the general election held in November 2006, then [Sections 18 through 48 and 55 through 62 of this act] are repealed.

NEW SECTION. Section 83. REIMBURSEMENT -- TAX INCREMENT -- PERSONAL PROPERTY. (1) THE REDUCTION IN THE TAX INCREMENT FOR EACH URBAN RENEWAL AREA, INDUSTRIAL DISTRICT, OR AEROSPACE TRANSPORTATION AND TECHNOLOGY DISTRICT THAT WOULD BE ATTRIBUTABLE TO THE ELIMINATION OF THE STATEWIDE EQUALIZATION AND UNIVERSITY SYSTEM LEVIES UNDER 15-10-107, 20-9-331, 20-9-333, 20-9-360, AND 20-25-423 AS THOSE SECTIONS READ ON DECEMBER 31, 2004, MUST BE TRANSFERRED FROM THE STATE GENERAL FUND TO THE SPECIAL FUND REFERRED TO IN 7-15-4286 IN EQUAL INSTALLMENTS EACH NOVEMBER 30 AND MAY 31.

(2) THE DEPARTMENT SHALL DETERMINE THE AMOUNT OF PROPERTY TAX LOST BY EACH LOCAL GOVERNMENT AS A RESULT OF THE AMENDMENTS TO 15-6-138 BY [THIS ACT] FOR THE PURPOSES OF PROVIDING LOCAL GOVERNMENT

1 REIMBURSEMENT OF THE LOST REVENUE.

2 (A) FOR THE INCREASE OF THE BASE EXEMPTION AMOUNT IN 15-6-138, EFFECTIVE JANUARY 1, 2006, THE
3 DEPARTMENT SHALL FOR CALENDAR YEAR 2006 AND CALENDAR YEAR 2007 ESTIMATE FOR EACH LOCAL GOVERNMENT
4 THE DIFFERENCE BETWEEN PROPERTY TAX COLLECTIONS UNDER 15-6-138 AS AMENDED BY [THIS ACT] AND THE
5 PROPERTY TAX REVENUE THAT WOULD HAVE BEEN COLLECTED IF 15-6-138 HAD NOT BEEN AMENDED BY [THIS ACT]. THE
6 TOTAL AMOUNT OF LOSS DETERMINED BY THE DEPARTMENT MUST BE ADDED TO EACH LOCAL GOVERNMENT'S BASE
7 ENTITLEMENT SHARE AMOUNT UNDER 15-1-121. THE 2006 AMOUNT MUST BE ADDED TO THE BASE ENTITLEMENT SHARE
8 AMOUNT FOR THE FISCAL YEAR ENDING JUNE 30, 2007, AND THE DIFFERENCE BETWEEN THE 2006 AMOUNT AND THE 2007
9 AMOUNT MUST BE ADDED TO THE BASE ENTITLEMENT AMOUNT FOR THE FISCAL YEAR ENDING JUNE 30, 2008.

10 (B) IF THE SALARY AND GROWTH TARGETS IN 15-6-138(5) ARE MET, THE DEPARTMENT SHALL DETERMINE THE
11 INCREMENTAL REDUCTIONS IN PROPERTY TAX REVENUE TO EACH LOCAL GOVERNMENT FOR THE FIRST CALENDAR YEAR
12 OF EACH REDUCTION AND APPLY THAT AMOUNT TO THE NEXT FISCAL YEAR BASE ENTITLEMENT SHARE AMOUNT AND THE
13 DIFFERENCE BETWEEN THE FIRST AND SECOND CALENDAR YEAR REDUCTIONS MUST BE ADDED TO THE NEXT FISCAL YEAR'S
14 BASE ENTITLEMENT SHARE AMOUNT.

15 (C) FOR THE PURPOSES OF THIS SUBSECTION (2), "LOCAL GOVERNMENT" HAS THE MEANING PROVIDED FOR IN
16 15-1-121(4).

17
18 ~~NEW SECTION. Section 94. Contingent voidness. If Senate Bill No. 450 is not passed and approved,~~
19 ~~then [this act] is void.~~

20
21 NEW SECTION. Section 84. Codification instruction. (1) [Section 16] is intended to be codified as
22 an integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to [section 16].

23 (2) [Sections 20, 22, 26 through 30, and 32 through 40] are intended to be codified as an integral part
24 of Title 15, chapter 68, and the provisions of Title 15, chapter 68, apply to [sections 20, 22, 26 through 30, and
25 32 through 40].

26 (3) [Sections 49 through 72 AND 83] are intended to be codified as an integral part of Title 15, and the
27 provisions of Title 15 apply to [sections 49 through 72 AND 83].

28
29 NEW SECTION. Section 85. Effective date. (1) Except as provided in subsection (2), [this act] is
30 effective January 1, 2006.

(2) [Sections 7, ~~and~~ 12 through 42, AND 82(2)] are effective January 1, 2007.

NEW SECTION. **Section 86. Applicability.** (1) [Section 7] applies to tax years beginning after December 31, 2006.

(2) [Section 11] applies to tax years beginning after December 31, 2007.

(3) [Sections 12 through 42] apply to sales of tangible personal property after December 31, 2006.

(4) [Sections 3 and 62 through 72] apply to tax years beginning after December 31, 2005.

- END -